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ABSTRACT

This collection of copyright policies from member libraries of the Association of Research Libraries (ARL) contains: (1) ARL briefing papers on reproduction of copyrighted materials for classroom use and current issues in library photocopying; (2) university copyright policies from New York University, Rutgers University, University of California-Davis, and University of Wisconsin; (3) university library general guidelines from University of Missouri-Columbia, Virginia Polytechnic Institute, and University of Virginia; (4) eight library reserve room policies; (5) photocopy guidelines from Columbia University, University of California-Los Angeles (UCLA), University of California-Riverside, and Yale University; (6) interlibrary loan copyright policies from Florida State University, University of California-Berkeley, and UCLA; (7) nine media and music reproduction policies; and (8) manuscripts and archives policies from Duke University, New York University, Notre Dame, and UCLA. A concise summary of copyright issues and trends focuses on reserve room policies; intra- and interlibrary copying guidelines; reproduction of music, media, and unpublished materials; copyright problems related to new information technology; and the public lending right. A 27-item bibliography and an evaluation sheet for this ARL Systems and Procedures Exchange Center (SPEC) kit are also provided. (ESR)

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COPYRIGHT POLICIES IN ARL LIBRARIES

With the completion of the first five-year review of the new copyright law and the out-of-court settlement of the New York University suit by nine publishers, many academic institutions and libraries are reviewing the copyright policies they first developed after the 1976 revision of the copyright law. Generally, they have followed the guidelines for classroom copying agreed to by the Ad Hoc Committee on Copyright Law Revision, the Authors-Publishers Group/Authors League of America, and the Association of American Publishers. Guidelines for faculty at several research universities focus primarily on classroom use of materials and only peripherally on library-related issues. As a result, librarians often feel compelled to develop their own guidelines to protect themselves from liability and infringement. In October of 1983, SPEC issued a call to ARL members for copyright-related policies that apply to classroom and library services at their institutions. Some 56 members responded. The documents reproduced are for illustrative purposes only and do not represent ARL policy or opinion.

Reserve Room Policies. Particularly sensitive in relation to copyright is the copying of single and multiple copies of journal articles and other portions of published materials placed on reserve in the library for students. Many feel that the library's reserve room is merely an extension of the classroom, and hence is subject to the same guidelines recommended for classroom copying at not-for-profit educational institutions. Because these guidelines do not carry the force of law and are subject to interpretation and because they never mention the library directly, institutions have taken a wide variety of views. No court actions have directly questioned reserve room practices thus far.

The criteria for copying are at best difficult to interpret and at worst burdensome to library administrators. When placing items on reserve, the criteria call into question whether a professor's spontaneity is sufficient, whether multiple copies may be kept on reserve for more than one semester without prior permission, whether the number of copies reserved can reflect the number of students in the class or is limited to six as recommended by ALA, and if more than one teacher can reserve the same copied materials simultaneously. To protect themselves from risk in these areas, many libraries require that professors provide their own copies and assume the responsibility for copyright clearance if necessary. Others take full responsibility for the entire process including contacting and paying publishers for use. No matter what role the reserve room assumes, it often retains records and correspondence that document the practices of professors and its own staff.

Intra- and Interlibrary Copying Guidelines. The Copyright Office requires libraries and archives to display a notice of copyright warning prominently on public and staff copying machines. The formal wording suggested by the Copyright Office is used by most libraries. As long as the notice is displayed and staff members do not knowingly assist or supervise a patron in copying materials not covered by the fair use provisions of the law, it is unlikely that they would be liable for copyright infringement by library users. Section 108 of the copyright law allows libraries to make copies for purposes of interlibrary lending under certain conditions. Most libraries follow the "CONTU Guidelines for the Proviso of Subsection 108[g] [2]" and the "American Library Association Record Maintenance and Retention Guidelines for Interlibrary

Loan Departments." These statements provide specific procedures for data collection regarding photocopying when loaning materials to other libraries, thereby limiting the discretion necessary for interpreting this part of the law.

Music and Media Reproduction. While policies on copying published materials by users and staff are fairly consistent among libraries, those for copying non-print media resources, musical works, and archives differ significantly. Media reproduction is one of the most troublesome topics in regard to copyright law, partially because the law has not kept abreast of developments in this area. Because copyright owners retain exclusive rights to reproduce their works, distribute them and create derivative works, libraries cannot simply transfer works to more durable formats without permission. For off-air videotaping of copyrighted works for educational purposes, guidelines were agreed upon in 1981 by a negotiating committee of 19 educational users and copyright proprietors. These guidelines safeguard the fair use provisions of the law in regard to off-air taping while they provide librarians and teachers greater certainty and protection. Copying of musical works is governed by voluntary fair use guidelines developed by representatives of music publishers, music teachers, music schools, and the Ad Hoc Committee on Copyright Law Revision. These guidelines generally follow those designed for the classroom except that they include rules for performance purposes as well as teaching and research use.

Unpublished Materials. Under the new copyright law of 1976 which brought unpublished materials under federal statutory law for the first time, copying of unpublished materials may be limited except for purposes of preservation, and security or scholarly research permitted under Section 108. As a result, many archive and manuscript repositories permit copying under fairly restrictive conditions only. These may include display of copyright warnings on each copy produced and completion of a form stating purpose of use by researchers. When providing access to unpublished materials, the archivists usually also must abide by any contractual restrictions set by the donors and their heirs and by the copyright owners of the materials, which may very well involve seeking the copyright owner's or donor's permission to quote as well as to copy a document. A means of avoiding such restrictions is to transfer copyright of unpublished materials to the archives upon donation.

Trends and Issues. While attempting to maintain a balance between owners' and users' rights to copy library materials, librarians are facing several new challenges in regard to copyright restrictions. Particularly troublesome are issues related to the impact of new technology on library programs and services. Unless these issues are addressed by the U.S. Congress, neither publishers and authors nor librarians can plan effectively for future use of electronic networks for publishing and accessing materials. Furthermore, problems related to the use of optical or video disk storage for preservation purposes emerge in regard to inputting, displaying, replicating, and copying copyrighted works. These issues are under review as part of pilot projects of the Library of Congress and the National Library of Medicine.

Yet another issue under discussion is the right of authors to be compensated for multiple uses of their books borrowed from libraries usually referred to as the "public lending right". Laws recently implemented in Great Britain and nine other countries establish a national fund for such compensation. Legislation has been introduced in the Congress to establish a commission to study the public lending right in the U.S. If librarians, publishers, and authors are to encourage the greatest possible production and consumption of the written word, they will need to work closely together to resolve some of their differences relative to the use of new technologies and compensation methods. In so doing, they will help determine how our society will support the creation and dissemination of the products of an information age.

The SPEC Kit on Copyright Policies (#102, March 1984, 98 pages) contains 4 university policies, 4 library general policies, 8 reserve room policies, 4 photocopy guidelines, 3 interlibrary loan policies, 7 media and music reproduction policies, and 4 manuscripts and archives policies. These documents are reproduced exactly as issued by the libraries, and are presented only as examples. They do not represent ARL policy or opinion. SPEC Kits are available mainly by subscription from the SPEC Center, Office of Management Studies, Association of Research Libraries, 1527 New Hampshire Ave., N.W., Washington, D.C. 20036. Individual kits may be ordered for \$15.00 each, prepayment required. Orders outside the U.S. and Canada, add \$5.00 for parcel post shipping and handling. (ARL members receive SPEC kits for \$7.50.)

This flyer/kit was prepared as part of the Collaborative Research/Writing Project by Nancy Kranich, Director of Public and Administrative Services, New York University Libraries.

USES OF SPEC KITS

The Systems and Procedures Exchange Center (SPEC) is a clearinghouse operated by the Association of Research Libraries, Office of Management Studies that provides a central source of timely information and materials on the management and operations of large academic and research libraries. It facilitates the exchange of knowledge and documents through SPEC Kits, which are distributed ten times each year to ARL members and other interested libraries. The Kits include topically-arranged groupings of unedited primary source documents - selected for their value to administrators and decision-makers - that illustrate a wide range of alternative approaches to specific issues.

Kit documents come from general membership surveys and from selected libraries contacted directly by SPEC, and most Kits are produced within six months of surveys. The documents' value comes from their variety of ideas, methods, and solutions. They are not viewed as finished products, but rather as points of departure for a library's planning efforts and as stimulants to innovative approaches to problem-solving. As such, Kits do not present answers or prescriptions for any one library; instead they illustrate how selected ARL members are planning for or dealing with particular issues. The worth of any one Kit to a particular library will depend upon the specific topic covered and the library's stage of development in that area.

Materials are selected according to the following criteria:

- Presents an approach of potential value to administrators and decision-makers
- Timely, and dealing directly with the topic under consideration
- Probability of application of ideas or thinking to other library situations
- Illustrative of actual practice, rather than theoretical
- Understandable, readable communication

All together, the materials should provide a range of alternative approaches that complement each other, provide variety, and stimulate comparison and contrast.

Libraries can take advantage of the Kit compilations in a number of ways. Administrators can evaluate the assumptions, methods, and results of other libraries' approaches; compare and contrast them; and use the learnings in their own situations. Library staff members can use the kits as professional development and current awareness tools. Committees and task forces can use them to begin a review of current practices. And the Kits can identify other persons or places to contact for further information. Back-up files in the SPEC office also are available for loan to member libraries. In addition, SPEC will conduct on-demand surveys or analyses geared specifically for a single library.

EVALUATION

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COPYRIGHT POLICIES IN ARL LIBRARIES*

KIT #102 MARCH, 1984

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October 15, 1983

CALL FOR COPYRIGHT POLICIES

56 RESPONSES RECEIVED

With the revision of the Copyright law pending and the settlement of the New York University lawsuit related to photocopying and distribution of certain course materials, libraries are again reviewing their policies and procedures in relation to Copyright. To assist ARL libraries in their efforts, the Office of Management Studies will publish a SPEC kit on Copyright Policy early next year.

We are asking your assistance in assembling the documents for the kit. Please send us copies of copyright-related policies that apply generally to classroom and library services at your institution. You should also consider those more specific documents that relate to the reserve room, interlibrary loan, manuscript and archives acquisitions, replacements for missing or damaged items, duplication of audio-visual materials, microfilm and reprint agreements, works created for the library, and any others you may have developed.

We hope to receive your documents by November 15. Please send them to:

Nancy Kranich
SPEC Copyright Kit Compiler
New York University Libraries
70 Washington Square South
New York, New York 10012

If you are in the process of revising your policies, please send us drafts marked "Under Revision". Upon completion, forward your final copies even if our deadline has passed so we can have these policies on file for future reference.

If you have any questions, please contact Nancy Kranich at (212) 598-2484 or Maxine Sitts at (202) 232-8656. Thank you for your cooperation. We look forward to your response.

Reproduction of Copyrighted Materials for Classroom Use

A Briefing Paper for Teaching Faculty and Administrators

Prepared by the
Association of Research Libraries

Statement of Purpose

Recent litigation involving New York University, a letter from the Association of American Publishers (AAP) to colleges and universities about the settlement reached in that case and a report on library photocopying by the Register of Copyrights have focused attention on the fair use and library photocopying provisions of the Copyright Act of 1976 (PL 94-553). The Register's report deals largely with library photocopying, while the NYU case and the AAP letter are concerned primarily with fair use and the practices of faculty members copying materials for classroom use.

The settlement agreement and, to an extent, the Register's report take a restrictive view of fair use and section 108 photocopying rights, which if uncritically adopted as guides may inhibit current lawful practices and impinge unnecessarily upon the rights of scholars and librarians. The Register's Report represents one viewpoint, which has been rebutted by the American Library Association (ALA Washington Newsletter, July 7, 1983). The AAP letter of June 10, 1983 seeks to extend the out-of-court settlement with NYU to other colleges and universities, by suggesting that it be universally adopted. That settlement need not be a model for others. In the view of the ARL, the attached policy of the University of Wisconsin-Madison is a better guide to what is permissible and appropriate in the context of higher education.

Given the significantly different interpretations of fair use and library photocopying rights that currently exist, and the fact that those differences are not likely to be resolved in the near future, the ARL offers the following as guidance for its members. This memorandum and its attachments are intended to serve as reference materials for discussions with teaching faculty and other members of the university community regarding the use of copyrighted materials.

Copyright Law

The owner of the copyright of a copyrighted work has the exclusive right to reproduce and distribute the work. It is important to be aware that the law applies even to material distributed free to students. The course instructor is responsible for copying done at his or her request, even if an off-campus copy center makes and distributes the copies.

The copyright owner's exclusive reproduction and distribution rights are, however, subject to important exceptions. The fair use exception in section 107 of the Copyright Act permits copying without the owner's permission for purposes such as criticism, comment, scholarship, research, or teaching, and authorizes the making of multiple copies for classroom use. The library photocopying exceptions in section 108 authorize the making of single copies of certain works or parts of works in specified circumstances.

The determination whether a particular use is a "fair" use of a copyrighted work requires consideration of the following four factors:

- (a) the purpose and character of the use;
- (b) the nature of the copyrighted work;

- (c) the amount and substantiality of the material used in relation to the copyrighted work as a whole; and
- (d) the effect of the use on the potential market for or value of the work.

Assessment of what is and what is not fair use is made on a case-by-case basis. The following points, however, provide some flesh for the bare bones of the statutory criteria.

Purpose and character of the use. A finding of fair use is more likely if:

- (1) the use of a copyrighted work is for a nonprofit educational purpose, rather than a commercial purpose (however, a nonprofit educational purpose does not ensure absolutely that the use is fair);
- (2) no charge is made for the copies; and
- (3) the original and the copy do not serve the same function.

Nature of the copyrighted work. A finding of fair use is more likely if the copyrighted work is:

- (1) a compilation of facts or information rather than a creative or imaginative work;
- (2) out of print or unavailable for purchase through normal channels;
- (3) not a consumable work (such as a workbook);
- (4) not intended for performance or public exhibition (such as a musical score); or
- (5) a newspaper or periodical (but not a newsletter) containing articles of current interest.

In the context of classroom use, copying from textbooks and other materials prepared primarily for the educational market is less likely to be considered fair use than is copying from materials designed for general public distribution.

Amount and substantiality of the material used in relation to the copyrighted work as a whole. Both the quantity (the amount copied) and the quality (the importance of the portion copied) of the use must be considered. A finding of fair use is more likely if the material copied:

- (1) is a small portion of the total work; and
- (2) does not contain a substantial amount of the essence or principal elements of the work.

Effect of the use on the potential market for or value of the work.
A finding of fair use is more likely if the use:

- (1) does not supplant a portion of the market for the work; or
- (2) stimulates sales of the work.

Permissible Copying and Recommended Procedures for Classroom Use Copying

No court has yet addressed the application of the fair use exception to photocopying in the university context. However, in general and subject to any considerations listed above (such as the limitation on fair use where consumable materials are involved) that may be applicable in particular cases, it appears that faculty members would be in compliance with the law if: (1) the copies themselves or other copies of the same works or portions of works are not used repeatedly, i.e., the faculty member has not used them in preceding classes and does not intend to use them in subsequent classes; (2) no more than one copy is made for each student; (3) a notice of copyright is included on each copy distributed; (4) students are not charged a fee beyond the actual cost of reproduction; and (5) in the case of longer materials, the portion copied is selective and sparing in relation to the whole work.

The right to make copies for classroom use is more limited if use of the copies will have a direct adverse effect on the potential market for the work, or if the permission of the copyright owner was not sought when the decision to copy was made with sufficient lead time to allow for the making of such request.

Guidelines

An agreement negotiated in 1976 by the Ad Hoc Committee on Copyright (a group of 39 education organizations), the Association of American Publishers (AAP), and the Authors League of America lists specific, quantitative standards for minimum (but not maximum) fair use copying, including both single copying by teachers and multiple copying for classroom use. In spite of the express statement that the agreement does not identify the outer boundaries of fair use, some publishing interests contend that permission must be obtained for any copying in excess of the numbers covered by the standards. The agreement, commonly referred to as the "Classroom Guidelines," restricts the copying of any poem longer than 250 words or the copying in full of any prose work longer than 2,500 words (although 10% of any longer prose work could be copied up to a maximum of 1,000 words). The guidelines also state that not more than one photograph or diagram should be copied from any single book or periodical article, that the decision to copy should be a spontaneous one (for example, where an article has just appeared that relates to subject matter being covered in a current course), and that no anthologies or collective works should be created by means of copying. These standards were incorporated into the recent out-of-court settlement between several publishers and New York University. (The Classroom Guidelines may be found in U.S. House of Representatives Report No. 94-1476, pp. 68-70.)

The minimum standards in the Classroom Guidelines in many respects appear unsuitable in the context of postsecondary education. It would be difficult and costly for a college or university that offers several hundred (or several thousand) courses to monitor compliance with the guideline that a particular work be copied for only one course. Similarly, it is unreasonable to require that no more than one work (or excerpt) be copied from the same author during one class term, when entire college courses may be

devoted to the works of one author. The brevity guidelines, e.g., excerpts of prose works must not exceed 1,000 words, also are too stringent for college-level courses. Therefore, it is particularly important to understand that libraries and professors are not necessarily confined to the copying endorsed by the Classroom Guidelines. Rather, a judgment must be made in each case based upon the factors listed in section 107.

The American Association of University Professors and the Association of American Law Schools dissented vigorously from the Classroom Guidelines on the grounds that the provisions were too restrictive in the college and university context. The American Library Association (ALA) has developed a model policy for classroom, research, and library reserve use of copyrighted materials. This policy provides a more realistic approach to a university's need to disseminate meaningful and current information in its instructional program than do the arbitrary quantitative standards proposed by the Ad Hoc Committee/AAP/Authors League guidelines. The ALA model policy was published in the ALA Washington Newsletter (April 23, 1982) and in C&RL News (April 1982). A number of universities have developed institutional policies based on the ALA model. One example, from the University of Wisconsin-Madison, is attached.

Musical Works

A library's right to reproduce musical works derives from section 107 fair use rights because section 108 rights do not extend to musical works, except for copies made for archival or replacement purposes.

Music educators and publishers have developed guidelines to identify minimum standards of educational fair use of music, which provide that for academic purposes other than performance, multiple copies of excerpts of up to 10% of works may be made, so long as the excerpts do not comprise a performable unit of a work. These guidelines may also be found in House Report No. 94-1476, pp. 70-71. As with the other guidelines, the music guidelines do not identify the outer limits of fair use.

Copying for Reserve Room Use

The Copyright Act does not specifically address copying for reserve room use. However, in appropriate circumstances, libraries lawfully may make single copies of copyrighted works at the request of faculty members for reserve room use under: (1) the fair use provision of section 107; (2) section 108(d), which authorizes libraries to make single copies of an article or a small part of other copyrighted works; or (3) section 108(e), which grants libraries the right to copy all, or a substantial part, of a work if a copy cannot be obtained at a fair price. The section 108(d) and (e) exceptions require (among other things) that the copy become the property of the user. It therefore is recommended that the copy be returned to the requesting faculty member at the end of the semester.

When a faculty member asks a library to make available multiple copies of a copyrighted work for reserve room use, the determination of whether or not the library lawfully may comply with the request depends upon whether or not the use is within section 107. Section 107 recognizes that fair use includes the making and distribution of multiple copies for classroom use, and does not limit that right to teachers. Inasmuch as the reserve room is an extension of the classroom, the standards for permitted copying for classroom use fairly may be read to apply to reserve room use as well.

"Umbrella" Statute

The AAP has recommended adding a new provision to the Copyright Act that would limit the remedies available for infringement of copyright in scholarly, scientific, and technical (SST) journals, business periodicals, and conference proceedings to an assessment of a reasonable copying fee (thus precluding injunctive relief, actual or statutory damages, lost profits, and impoundment) if the user is and the copyright owner is not registered with the Copyright Clearance Center or another qualified licensing system. The draft legislation, commonly referred to as the "umbrella" statute, contains a number of conditions, including that the copy be used for research and study, and that it contain a notice of copyright. The Register of Copyrights supports the principle of the proposal, although he has expressed concern about the copying prices that might be established by licensing systems.

The principal effect of such a statute would be to pressure publishers and users to join private royalty collection organizations. It also would be likely to have a chilling effect on the exercise of fair use rights.

Attachments

1. Current Issues in Library Photocopying and Copyright: A Briefing Paper For Librarians and Archivists, Association of Research Libraries.
2. Guidelines for Photocopying for Teaching and Research, University of Wisconsin-Madison.
3. Scholarly Journal Publishing and Library Photocopying: Economic Issues Bearing on Copyright, American Library Association.

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Attachment I

Current Issues in Library Photocopying and Copyright

A Briefing Paper for Librarians and Archivists

Prepared by the
Association of Research Libraries

The release of the Register of Copyrights' first five-year report on the library photocopying provisions of the Copyright Act of 1976 and recent highly publicized lawsuits by publishers challenging the photocopying practices of New York University and some of its faculty (which has now been settled), off-campus copy services, and a few large business corporations have raised anew questions regarding the bases and extent of the rights of libraries to make and distribute photocopies of copyrighted works without copyright liability. This briefing paper provides information and guidance regarding these issues.

Statutory Bases of Library Photocopying Rights

Section 107. Prior to enactment of the 1976 Copyright Act, courts recognized that the exclusive rights of copyright proprietors with respect to the reproduction of their works did not extend so far as to preclude fair use by others. In the Williams & Wilkins case, decided in 1973, the U.S. Court of Claims (now merged into the U.S. Court of Appeals for the Federal Circuit) confirmed that the doctrine of "fair use" applied to library photocopying, including the provision of photocopies in lieu of interlibrary loans. It held that the photocopying practices of the National Library of Medicine (NLM) challenged by Williams & Wilkins, the plaintiff medical journal publisher, which included the copying of journal articles in their entirety, were fair use.

In reaching that conclusion, the court found it important that the Library had reasonably strict policies that limited copying. Specifically, NLM had generally restricted (1) making more than one copy of a journal article in response to an individual request, (2) copying more than 50 pages of an article, or (3) copying more than one article from a journal issue. Not more than 20 requests from an individual (30 from an institution) per month were honored.

Congress incorporated the judicial doctrine of fair use into section 107 of the 1976 Act without intending to change, narrow, or enlarge it in any way. Section 107 states that a "fair" use may involve reproduction by copying, including multiple copies for classroom use.

Section 108. At the urging of libraries, who wanted their historic rights recognized with more certainty than section 107 afforded, Congress incorporated in section 108 specifically delineated rights for libraries to reproduce and distribute copyrighted works. Section 108 expressly states, however, that it in no way affects the section 107 right of fair use. Section 108 rights are not exclusive, and a library may have copying rights available under section 107, in addition to its rights under section 108. Thus, depending upon the circumstances, a library may have photocopying rights under section 107 that are more extensive than those specified in section 108. The right to make multiple copies for classroom use where all section 107 conditions are satisfied would be one example.

Section 108 rights do not apply to musical, pictorial, graphic, or sculptural works, or to motion pictures or other non-news audiovisual works, except that libraries may reproduce such works for archival or replacement purposes.

Conditions Imposed by Section 108

The following conditions must be satisfied if reproduction or distribution of a copyrighted work is to fall within section 108: (1) the reproduction or distribution must be made without any purpose of commercial advantage; (2) the collection of the library must be open to the public or, at the least, to persons not affiliated with the institution who are doing research in a specialized field; and (3) the reproduction or distribution must include a notice of copyright.

The notice requirement has been the subject of dispute, with some publisher interests arguing that the notice required is the statutory notice of copyright, where one is published with the work. However, Congress knew how to refer to the statutory notice when that was what it meant (see, e.g., section 405, Copyright Act of 1976) and it knew of the serious administrative burdens that a requirement to locate and reproduce the statutory notice would impose. Moreover, the statutory notice lost much of its significance in the new Act. Therefore, it is more reasonable to conclude that something short of duplication of the statutory notice was intended.

This interpretation is supported by an agreement on multiple copying for classroom use negotiated in 1976 by the Ad Hoc Committee on Copyright (a group of 39 education organizations), the Association of American Publishers (AAP), and the Authors League of America. This agreement, commonly referred to as the "Classroom Guidelines," requires only that each copy include a notice of copyright, such as the notice that is commonly placed on the copying plate of library photocopying machines.

Musical Works

A library's rights under section 108 do not extend to musical works, except for archival or replacement purposes. The Music Library Association and Music Publishers Association have proposed an amendment to section 108, which the Register of Copyrights endorsed in his January 1983 report to Congress, that would allow a library to make and distribute a single copy of a musical work if a copy cannot be obtained at a fair price and, following a reasonably diligent search, the library is unable to locate the copyright owner. If the owner can be located, reproduction without permission would be prohibited. To some extent, libraries may already have such rights under section 107.

Interlibrary Loan

The Copyright Act specifically authorizes the provision of photocopies in lieu of interlibrary loans for single photocopies of articles from periodicals or collections, or of small parts of other copyrighted works without copyright liability. This right is limited, however, by complicated language reflecting a carefully drawn congressional compromise. One half of the compromise is a provision stating that the right does not extend to the "systematic" reproduction and distribution of copies. The other half is a proviso making it clear that an activity will not be considered "systematic" as long as the library or archives receiving the reproductions does not do so in such "aggregate quantities as to substitute for a subscription to or purchase of [the] work."

Prior to the enactment of the 1976 Copyright Act, library and publisher organizations developed a set of guidelines to assist in interpreting the quoted language

of the proviso. These guidelines were negotiated with the assistance of the National Commission on New Technological Uses of Copyrighted Works (CONTU), and were incorporated into the congressional conference committee report on the Act. (U.S. House of Representatives Conference Report No. 94-1733, pp. 72-73.) The CONTU guidelines give the following interpretation: with respect to a periodical (not a given issue of a periodical), the language of the proviso means filling a request of a library or archives within any calendar year for six or more copies of articles published in the periodical within five years prior to the date of the request (periodical articles that are more than five years old were generally considered to be so infrequently requested that they are not covered by the guidelines); with respect to all other material, the language of the proviso means filling requests of a single requesting entity within any calendar year for six or more copies of any given copyrighted work.

Some claim that where libraries provide a copy of a work instead of lending the work itself, the term "loan" is imprecise and the term "republishing" is appropriate. It is not, because the law recognizes that photocopies may be provided in lieu of interlibrary loans. In the typical case, the provision of the photocopy serves exactly the same purpose as a loan of the work itself, and simply reduces the risk of loss or damage in transit and reduces the transaction cost.

Reserve Rooms

While the Copyright Act does not specifically address copying for reserve room use, libraries may make single or multiple copies of copyrighted works at the request of faculty members under appropriate circumstances. These circumstances are more fully described in the ARL document "Reproduction of Copyrighted Materials for Classroom Use: A Briefing Paper for Teaching Faculty and Administrators," which accompanies this paper.

The New York University Settlement

In settling the suit brought against it by several publishers, NYU agreed to abide by the 1976 Classroom Guidelines. The suit did not explicitly address any library photocopying issues, but there may be implications for libraries, because the reserve room may be considered an extension of the classroom. The minimum standards in the Classroom Guidelines are in many respects unsuitable in higher education, as discussed in the ARL briefing paper for teaching faculty and administrators.

UNIVERSITY COPYRIGHT POLICIES



NEW YORK UNIVERSITY

ELMER HOLMES BOBST LIBRARY
70 WASHINGTON SQUARE SOUTH, NEW YORK, N.Y. 10012

Vice President and Secretary

Dear Faculty Member:

Pursuant to the April 7, 1983, agreement settling the copyright lawsuit brought by nine publishers against the University and eight individual faculty members, the University has adopted a Statement of Policy on Photocopying Copyrighted Materials, a copy of which is provided herewith for your information and guidance.

Very truly yours,

S. Andrew Schaffer

Statement Of Policy On Photocopying Copyrighted Materials

(Policy Statement on Photocopying of Copyrighted Materials for Classroom and Research Use Approved by the Board of Trustees, May 9, 1983)

In December, 1982, nine publishers commenced a lawsuit against the University and nine members of the faculty (as well as an off-campus copy shop) alleging that the photocopying and distribution of certain course materials, without the permission of the copyright owners of the materials, violated the Copyright Act (17 U.S.C. §§101 et. seq., 90 Stat. 2541, Pub. L. 94-553). It has become increasingly clear that the subject of photocopying for classroom and research purposes is of significant concern to the faculty, who have inquired about issues such as when photocopying may be done without the consent of the copyright owner; when and how permission to photocopy should be obtained; how exposure to liability may be reduced; and under what circumstances the University will defend them against claims of copyright infringement arising out of photocopying for classroom and research use. To assist the faculty in resolving these issues, to facilitate compliance with the copyright laws, and as part of the settlement of the publishers' lawsuit, the University is issuing this Policy Statement.¹

1. The principles of the copyright law are designed to promote the creation, publication, and use of works of the intellect. These principles include both the exclusive rights of copyright owners to determine certain uses of their works (in not-for-profit as well as commercial contexts), and certain exceptions including the doctrine of "fair use". These precepts are in the mutual interest of the university, author, and publisher communities and of the public.

2. Under the copyright laws, certain photocopying of copyrighted works for educational purposes may take place without the permission of the copyright owner under the doctrine of "fair use" (presently set forth in Section 107 of the

Copyright Act). This principle is subject to limitations, but neither the statute nor judicial decisions give specific practical guidance on what photocopying falls within fair use. To achieve for faculty greater certainty of procedure, to reduce risks of infringement or allegations thereof, and to maintain a desirable flexibility to accommodate specific needs, the following policies have been adopted by the University for use through December 31, 1985 (and thereafter, unless modified). On or before December 31, 1985 the University will review these policies to determine their effect and whether modifications, based on our experience, might be needed. If members of the faculty experience any problems or have suggestions, they are asked to communicate them to the Office of Legal Counsel.

A. The Guidelines set forth in Appendix I are to be used to determine whether or not the prior permission of the copyright owner is to be sought for photocopying for research and classroom use.² If the proposed photocopying is not permitted under the Guidelines in Appendix I, permission to copy is to be sought. An explanation of how permissions may be sought and a procedure for furnishing to the administration information concerning the responses by copyright owners to requests for permission is set forth in Appendix II. After permission has been sought, copying should be undertaken only if permission has been granted, and in accordance with the terms of the permission, except as provided in the next paragraph.

B. The doctrine of fair use may now or hereafter permit specific photocopying in certain situations, within limitations, beyond those specified in the Guidelines³ or those that might be agreed to by the copyright owner. In order to preserve the ability of individual faculty members to utilize the doctrine of fair use in appropriate circumstances without incurring the risk of having personally to defend an action by a copyright owner who may disagree as to the limits of fair use, a faculty member who has sought permission to photocopy and has not received such permission (or has received permission contingent upon conditions that the faculty member

considers inappropriate) may request a review of the matter by General Counsel of the University. If upon review the General Counsel determines that some or all of the proposed photocopying is permitted by the copyright law, the General Counsel will so advise the faculty member. In that event, should any such photocopying by the faculty member thereafter give rise to a claim of copyright infringement, the University will defend and indemnify the faculty member against any such claim in accordance with the provisions of the Board of Trustees policy on Legal Protection of Faculty (Faculty Handbook [1982 ed.] pp. 109-112).

C. In the absence of the determination and advice by the General Counsel referred to in paragraph B, or in the event that permission has not been first requested by the faculty member as provided in paragraph A, no defense or indemnification by the University shall be provided to a faculty member whose photocopying gives rise to a claim of copyright infringement.

APPENDIX I

GUIDELINES

I. Single Copying for Teachers

A single copy may be made of any of the following by or for a teacher at his or her individual request for his or her scholarly research or use in teaching or preparation to teach a class:

- A. A chapter from a book;
- B. An article from a periodical or newspaper;
- C. A short story, short essay or short poem, whether or not from a collective work;
- D. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper.

II. Multiple Copies for Classroom Use

Multiple copies (not to exceed in any event more than one copy per pupil in a course) may be made by or for the teacher giving the course for classroom use or discussion; provided that:

- A. The copying meets the tests of brevity and spontaneity as defined below; and
- B. Meets the cumulative effect test as defined below; and
- C. Each copy includes a notice of copyright.

Definitions

Brevity

(i) Poetry: (a) A complete poem if less than 250 words and if printed on not more than two pages or, (b) from a longer poem, an excerpt of not more than 250 words.

(ii) Prose: (a) Either a complete article, story or essay of less than 2,500 words, or (b) an excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less, but in any event a minimum of 500 words.

[Each of the numerical limits stated in "i" and "ii" above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.]

(iii) Illustration: One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.

(iv) "Special" works: Certain works in poetry, prose or in "poetic prose" which often combine language with illustrations and which are intended sometimes for children and at other times for a more general audience fall short of 2,500 words in their entirety. Paragraph "ii" above notwithstanding such "special works" may not be reproduced in their entirety; however, an excerpt comprising not more than two of the published pages of such special work and containing not more than 10% of the words found in the text thereof, may be reproduced.

Spontaneity

(i) The copying is at the instance and inspiration of the individual teacher, and

(ii) The inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.

Cumulative Effect

(i) The copying of the material is for only one course in the school in which the copies are made.

(ii) Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical volume during one class term.

(iii) There shall not be more than nine instances of such multiple copying for one course during one class term.

[The limitations stated in "ii" and "iii" above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.]

III. Prohibitions as to I and II Above

Notwithstanding any of the above, the following shall be prohibited:

(A) Copying shall not be used to create or to replace or substitute for anthologies, compilations or collective works. Such replacement or substitution may occur whether copies of various works or excerpts therefrom are accumulated or reproduced and used separately.

(B) There shall be no copying of or from works intended to be "consumable" in the course of study or of teaching. These include workbooks, exercises, standardized tests and test booklets and answer sheets and like consumable material.

13 (C) Copying shall not:
(a) substitute for the purchase of books, publishers' reprints or periodicals; (b) be directed by higher authority; (c) be repeated with respect to the same item by the same teacher from term to term.

(D) No charge shall be made to the student beyond the actual cost of the photocopying.

Agreed March 19, 1976.
Ad Hoc Committee on Copyright Law Revision:
By Sheldon Elliott Steinbach.

Author-Publisher Group:
Authors League of America:
By Irwin Karp, Counsel.

Association of American Publishers, Inc:
By Alexander C. Hoffman,
Chairman, Copyright Committee.

APPENDIX II

PERMISSIONS

A. How to Obtain Permission

When a proposed use of photocopied material requires a faculty member to request permission, communication of complete and accurate information to the copyright owner will facilitate the request. The Association of American Publishers suggests that the following information be included to expedite the process.

1. Title, author and/or editor, and edition of materials to be duplicated.
2. Exact material to be used, giving amount, page numbers, chapters and, if possible, a photocopy of the material.
3. Number of copies to be made.
4. Use to be made of duplicated materials.
5. Form of distribution (classroom, newsletter, etc.).
6. Whether or not the material is to be sold.
7. Type of reprint (ditto, photocopy, offset, typeset).

The request should be sent,⁴ together with a self-addressed return envelope, to the permissions department of the publisher in question. If the address of the publisher does not appear at the front of the material, it may be obtained from The Literary Marketplace (for books) or Ulrich's International Periodicals (for journals), both published by the R. R. Bowker Company. For purposes of proof, and to define the scope of the permission, it is important that the permission be in writing.

The process of considering permission requests requires time for the publisher to check the status and ownership of rights and related matters and to evaluate the request. It is advisable, therefore, to allow sufficient lead time. In some instances the publisher may assess a fee for permission, which

may be passed on to students who receive copies of the photo-copied material.

B. Gathering Data on Responses to Requests for Permission to Photocopy

In order to help assess the effect of this Policy Statement upon the faculty it will be useful for the administration to compile data on responses by copyright owners. Each member of the faculty is therefore requested to forward a dated copy of each request for permission and a dated copy of each response to the Office of Legal Counsel, Bobst Library, 11th Floor, 70 Washington Square South, New York, New York 10012.

- 1 This Policy Statement supersedes the document entitled "Interim Guidelines Concerning Photocopying for Classroom Research and Library Use" which was distributed on January 18, 1983.
- 2 To minimize intrusiveness and over-centralization, the responsibility for making this determination will continue to reside with the individual faculty member. In making this determination, the faculty member should carefully consider all sections of the attached Guidelines.
- 3 The Guidelines contained in Appendix I were negotiated by education, author, and publishing representatives in 1976 and were incorporated in the House of Representatives report accompanying the Copyright Act of 1976. The introductory explanation of the Guidelines in the House Report describes their relationship to the doctrine of fair use as follows:

Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions

With Respect to Books and Periodicals

The purpose of the following guidelines is to state the minimum standards of educational fair use under Section 107 of H.R. 2223. The parties agree that the conditions determining the extent of permissible copying for educational purposes may change in the future; that certain types of copying permitted under these guidelines may not be permissible in the future; and conversely that in the future other types of copying not permitted under these guidelines may be permissible under revised guidelines.

Moreover, the following statement of guidelines is not intended to limit the types of copying permitted under the standards of fair use under judicial decision and which are stated in Section 107 of the Copyright Revision Bill. There may be instances in which copying which does not fall within the guidelines stated below may nonetheless be permitted under the criteria of fair use.

- 4 The following is a sample letter to a copyright owner (usually a publisher) requesting permission to copy:

Material Permissions Department
Hypothetical Book Company
500 East Avenue
Chicago, IL 60601

Dear Sir/Madam:

I would like permission to copy the following for use in my class next semester:

Title: Knowledge is Good, Second Edition

Copyright: Hypothetical Book Co., 1965, 1971

Author: Frances Jones

Material to be duplicated: Chapter 10 (photocopy enclosed)

Number of copies: 50

Distribution: The material will be distributed to students in my class and they will pay only the cost of the photocopying.

Type of reprint: Photocopy

Use: The chapter will be used as supplementary teaching materials.

I have enclosed a self-addressed envelope for your convenience in replying to this request.

Sincerely,

Faculty Member

THE STATE UNIVERSITY OF NEW JERSEY
RUTGERS

Vice President for Research and Academic Policy
New Brunswick • New Jersey 08903 • 201/932-7821

RECEIVED

NOV 10 1983

ALL PERSONNEL

7 November 1983

Memorandum to: Members of the University Faculty

From: Nathaniel J. Pallone 

Subject: INTERIM ADMINISTRATIVE POLICY ON
PHOTODUPLICATION OF COPYRIGHTED MATERIALS

Background Information

As you are probably aware, nine commercial publishers as members of the Association of American Publishers brought suit last December against New York University and several members of the NYU faculty, alleging that photocopying and distribution of certain course materials without permission of the holders of the copyrights for those material had violated their rights under the Federal Copyright Act. In early summer, the litigants reached an out-of-court settlement, under which NYU agreed to adopt and implement specific rules and procedures [in conformance with the law] to govern photoduplication of copyrighted works by the faculty and also to undertake responsibility for compliance with those rules.

Among several other provisions in the settlement, NYU has agreed to honor the terms of an Agreement [reproduced as an appendix to this memorandum] reached in 1976 by the Ad Hoc Committee on Copyright Law Revision, which contained representatives of the Association of American Publishers, the Authors League of America, and the Author-Publisher Group, and later adopted as well by the Ad Hoc Committee of Educational Institutions and Organizations on Copyright Law Revision. A key provision of that Agreement [Section II] permits photoduplication of copyrighted materials for classroom use under clearly specified conditions, enumerated under "Definitions" in that document and further limited by the provisions of Section III therein.

Statement of Interim Policy at Rutgers

In order to protect both Rutgers as a legal entity and its faculty as

individuals against charges of copyright infringement at some future point, the University administration will study this term the need to design rules and procedures analagous to those under development at NYU [and elsewhere] in the light of the settlement with the litigating publishers. In the interim, however, it is imperative that members of the Rutgers faculty be guided by the provisions of the Agreement contained in the attachments to this memorandum which, by direction of the Executive Vice President, is hereby adopted as interim administrative policy governing the photoduplication of copyrighted materials at Rutgers. Members of the faculty are urged to be particularly attentive to the provisions of Sections II and III-C therein.

Violation and Indemnification

Members of the faculty are asked to bear in mind that the University's indemnification policy covers University employees who act in good faith in the course of their duties but not those who knowingly act in violation of the rights of others, including property rights as protected in copyright laws.

Future Developments

The University administration will be following carefully both legislative, judicial, and professional developments concerning copyright law revision, among which is expected to be a resolution of the widespread debate concerning the meaning of "fair use" under relevant law. At the appropriate time, we will forward a draft version of a non-interim policy on photoduplication to the several schools, colleges, and faculties and to the University Senate for debate. For those with a particular interest in further background, Circular R21 of the Copyright Office, Library of Congress ["Reproduction of Copyrighted Words by Educators and Librarians"] will prove useful.

UC DAVIS POLICY & PROCEDURE MANUAL

INSTRUCTION AND RESEARCH

Date: 6/3/83 Sec. 210-72

Supersedes: 210-70.2 Page 1 of 5
dated 7/3/78

USE OF COPYRIGHTED MATERIALS IN GENERAL

I. PURPOSE

This section identifies issues that should be considered and procedures that should be followed when University use of materials copyrighted by others is contemplated or when others seek permission to use materials copyrighted by the University. The special considerations and procedures applicable to use of materials produced under University auspices are described in Section 210-73.

II. DEFINITIONS

- A. Copyright license--written permission for use of copyrighted material, usually limited to a particular period of time and a specified type of use.
- B. Copyright assignment--the transfer of one or more ownership rights in a work from the copyright owner to another person.

III. POLICY

A. University use of copyrighted material

Infringement of copyright is both illegal and unethical and therefore contrary to the University's best interests. Unfortunately, it is often difficult to determine whether a specific use of copyrighted material would constitute fair use or infringement (see definitions in Section 210-70). As a general rule, it is advisable to obtain the owner's permission for University reproduction or other use of copyrighted material whenever possible.

Faculty and staff members in charge of any University project involving reproduction of copyrighted material (or exercise of any other ownership right in such material) are responsible for assuring, to the best of their ability, that the University's activities are in compliance with the requirements of federal law and University policy.

1. Library copying

Libraries are prohibited from making multiple copies of copyrighted materials. The Reserve Book Room and the Copying Service of the campus Library will therefore make single copies only. Further information on the special regulations governing reproduction of copyrighted materials by libraries and archives may be obtained by calling the Library, 2-2110.

2. Departmental copying

Copyrighted materials are often reproduced in areas where there are user-operated or departmentally operated copy machines. In order to assure that users are cautioned about their responsibilities under the copyright law, departments which are responsible for operation and control of copy machines should post the warning notice provided in Exhibit A. The notice should be clearly visible, legible, and comprehensible to a casual observer in the immediate vicinity of any copy machine or the place where orders for any machine's use are accepted.

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USE OF COPYRIGHTED MATERIALS IN GENERAL

3. Instructional use

Multiple-copy reproduction of copyrighted materials for instructional use may or may not be consistent with the fair use concept, depending on circumstances.

- a. Responsibility for the decision to seek a copyright owner's permission for such reproduction or to proceed without such permission lies with the person requesting copies, not the facility (e.g., Repro Graphics Department, Illustration Services) providing reproduction services.
- b. Guidelines for such decisions are provided by the agreement attached as Exhibit B, which was developed by representatives of several concerned organizations (including educational institutions) with the Authors League of America and the Association of American Publishers, Inc.
 - 1) The guidelines do not have the force of law; they reflect the effort of educators, writers, and publishers to achieve mutual understanding on a problem of mutual concern. Also, the guidelines represent minimum standards, not the outside limits of fair use in the instructional context. Therefore, University faculty and staff are urged to work within the guidelines as much as possible; but instructional uses of copyrighted material not explicitly permitted by the guidelines may nevertheless be acceptable under the more general fair use concept.
 - 2) Two points should be borne in mind:
 - a) The notice of copyright appearing on the original should be included on any reproductions made for classroom use.
 - b) The same material should not be reproduced for use year after year unless the permission of the copyright owner for such repetitive use is obtained.
- c. Monetary penalties for infringement of copyright arising from the conduct of University business, including instruction, will normally be paid from departmental budgets.

4. Public distribution

Public distribution of instructional media materials created under University auspices (e.g., video cassettes, film strips, syllabi) will not be permitted unless:

- a. The University author certifies, in writing, that all material included in the work (e.g., graphics and music as well as written text) is of his or her

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original authorship (or can be proved to be "works made for hire" by other persons); or

- b. The permission of each copyright owner whose work has been used is obtained in writing.

5. Legal advice

In particularly complex situations, the question whether a planned use of copyrighted material is likely to result in infringement should be referred to General Counsel, either directly or through the campus Business Contracts & Analysis Office (2-2426).

B. Use of material copyrighted by the University

Determinations whether or not to grant permission for others to use material copyrighted by the University will be made by authorized officers according to the facts of each case. Such permission will not be granted if the form, use, and/or distribution of the material would constitute adverse competition with University programs.

IV. PROCEDURES

A. University use of copyrighted material

1. Persons requesting Repro Graphics or other University reproduction facilities to reproduce multiple copies of copyrighted material for instructional use must certify, in writing, either that the owner's permission has been obtained or that the proposed use of such materials is consistent with the concept of fair use. This requirement is intended to assure both that relevant issues are considered in each case and that the University's good-faith effort to comply with the law is documented.
 - a. The form to be used for this certification is attached to this section as Exhibit C. It should be filled out and signed before material to be reproduced is taken to the reproduction facility. When materials from a variety of sources are to be reproduced as part of a single project, a list of the works, their sources, and the relevant copyright notices may be attached to a single signed copy of the certification form.
 - b. When the copyright owner's permission for the proposed use of the work has been obtained in writing, a copy of that permission may be substituted for the certification form.
2. When a copyright owner's permission is to be sought for University use of his or her work, the procedures described below are followed. In all cases, only the rights actually needed should be requested; the material to be used and the planned manner of its use should be fully and accurately described; the request should be prepared and sent to the owner for signature in duplicate, so that both the

UC DAVIS POLICY & PROCEDURE MANUAL
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USE OF COPYRIGHTED MATERIALS IN GENERAL

University and the owner can have a copy bearing original signatures.

- a. The letter attached to this section as Exhibit D should be prepared and sent to the copyright owner as the initial request for permission to use copyrighted material without charge.
 - b. If the copyright owner signs and returns the request, the original should be sent to the campus Office of Business & Finance for retention in its record file; the department concerned should retain a photocopy for reference purposes.
3. If a copyright owner refuses to grant a free license, an official determination must be made that the need for University use of the material is commensurate with the fee requested. In such a case, the following materials should be prepared and sent to the Business & Finance Office for formal processing:
- a. An explanation of the project which requires the use of the copyrighted material, explaining the importance of its use.
 - b. Copies of the original request to the owner and of the owner's response.
 - c. A statement, signed by the department chairperson or unit head whose budget would be charged, confirming his or her approval for payment of the license fee.
 - d. A Check Request (Non-Payroll), Form U5, for the amount of the fee. (If this form is signed by the department chairperson or unit head, the statement described in 3c, above, may be omitted.)
 - e. A copy of the license agreement offered by the copyright owner, if any. (The standard University copyright license is shown in Exhibit E.)

The Business Contracts & Analysis Office will see that the license agreement is reviewed and executed in accordance with University policy and is sent to the copyright owner with the required fee. When the license is signed and returned by the owner, a copy will be provided to the originating unit.

B. Use of material copyrighted by the University

1. Requests for use of material copyrighted by the University, when received by the unit which originated such material, should be forwarded to the Business & Finance Office with a written recommendation as to the action that should be taken, including whether or not a fee should be charged. (Requests received by the campus administration will be referred to the originating unit for review and recommendation before a response is prepared.)

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USE OF COPYRIGHTED MATERIALS IN GENERAL

2. If a license is granted, a copy will be furnished to the originating unit for information.

C. Assignments of copyright

Requests for copyright assignments will be handled in the same way as requests for copyright licenses, except that departmental staff are not authorized to initiate formal requests to copyright owners for assignment of copyrights to the University; such requests must be processed through the Business Contracts & Analysis Office.

D. Use of other forms of agreement

Use of agreement forms other than those attached as Exhibits D and E or use of modified versions of those forms requires the prior approval of General Counsel, which the Business Contracts & Analysis Office will secure, as necessary, in the course of normal processing procedures.

V. REFERENCE

Office of the President: University Copyright Policy, 8/1/75; revised 4/15/77.

University of Wisconsin Madison

OFFICE OF ADMINISTRATIVE LEGAL SERVICES

361 Bascom Hall / 500 Lincoln Drive / Madison, Wisconsin 53706 / (608) 263-7400

March 7, 1983

MEMORANDUM

TO: Deans, Directors, Department Chairpersons

FROM: Gail S. Kalson, Office of Administrative Legal Services

RE: Guidelines for Multiple Copy Reproduction of Copyrighted Materials for Classroom Use

Recent litigation has focused on the application of the Fair Use provisions in the copyright law to reproduction of copyrighted materials for classroom use. This memo is being sent so that you have available and can make sure all teaching staff are informed about the provisions of the copyright law as they pertain to classroom copying of copyrighted materials.

I. The Copyright Law

Under the copyright law the copyright owner has the exclusive right to reproduce and distribute the work. The "Fair Use exception" permits copying without the copyright owner's permission for purposes such as criticism, comment, teaching, scholarship or research.

In determining whether the use is a "fair use" the law requires consideration of the following factors: 1. the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes; 2. the nature of the copyrighted work; 3. the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and 4. the effect of the use upon the potential market for or value of the copyrighted work. (17 U.S.C. sec. 107)

The determination of fair use is made on a case-by-case basis. It is important to note that the law applies even to material distributed free to the students. It holds the course instructor responsible if the copying is done at his or her request, even if it is an outside copy center that reproduces and distributes the work. The University's own policy is that teaching staff are expected to secure permission from the copyright owners unless the intended use clearly is permissible under the "fair use" exception.

II. Permissible Copying

The American Library Association has developed model guidelines for classroom, research and library use of copyrighted materials. We believe they provide a realistic approach to the University's need to disseminate meaningful and current information in its instructional program. These ALA guidelines are attached; they also contain a sample letter for requesting permission to copy and a summary of infringement remedies available to the copyright owner.

As yet, no court cases have interpreted the Fair Use exception in the University context. Despite the availability of the ALA guidelines no automatic formula determines whether a use is a fair use. However, we believe you would be in compliance with the law if: 1) the materials are not used repeatedly; that is, you have not used them in preceeding classes and you do not intend to use them in subsequent classes; 2) no more than one copy is made for each student; 3) the notice of copyright is included on each copy distributed; 4) the students are not assessed a fee beyond the actual cost of reproduction; and 5) in the case of longer materials and books, the portion copied is selective and sparing in comparison to the whole of the work.

The right to make multiple copies is weakened if there is any reason to believe that the copying will directly affect the potential market for the work or if copying was done without permission when the decision to copy was made with sufficient lead time to request permission. This does not mean however that an instructor has free license to copy what he/she wishes if the decision is made the week before classes.

III. Publisher Recognized Guidelines

An agreement between the Association of American Publishers (AAP) and the American Council of Education accepts the points listed above, but also urges use of a quantitative standard. It argues that "fair use" should not permit the copying of any poem longer than 250 words or the copying, in full, of any prose work longer than 2500 words (although 10% of any longer prose work could be copied up to a maximum of 1000 words). The AAP would also insist that not more than one photo or diagram should be copied from any single book or periodical, that the decision to copy be a spontaneous one, and that no anthologies or collective works be created by means of copying. A spontaneous decision would be made for example where an article, etc., has just appeared in a journal and it related to subject matter being covered in a course. The publishers are using these standards in arguing their current case against New York University and several of its professors. The AAP has raised particular concern about the creation of anthologies which use copyrighted material without permission in order to produce a volume used as a textbook or class reader. One court has found the AAP Guidelines "instructive" in a case dealing with the distribution of copies of a copyrighted work in a secondary school classroom.

IV. Recommended Procedures for Multiple Copying for Classroom Use

In the absence of any satisfactory definition of "fair use" by court test or law, individual judgment must be exercised. We have copies of the AAP guidelines if you wish to see them, but on balance we believe the American Library Association guidelines provide a more realistic approach in the university context.

The ALA advises faculty to be "selective and sparing" in copying, but to reject for university situations the arbitrary limits proposed by the publishers. In our view, UW-Madison staff will be complying with the law if they follow carefully the ALA guidelines.

If you have any questions regarding the "fair use" exception, please call Gail Kalson at the Office of Administrative Legal Services, 263-7400.

GUIDELINES FOR PHOTOCOPYING
FOR TEACHING AND RESEARCH

February 15, 1978
Revised April 1983

by

"
OFFICE OF ADMINISTRATIVE LEGAL SERVICES
University of Wisconsin-Madison

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GUIDELINES FOR PHOTOCOPYING FOR TEACHING AND RESEARCH

A. INTRODUCTION

A new, complex U. S. copyright law went into effect on January 1, 1978. One portion of the new law authorizes teachers to reproduce some copyrighted works without paying royalties or securing permission. However, that part is expressed in such general terms that more explicit guidance is needed. These guidelines are intended to afford that assistance.

B. COPYING WHICH IS COMPLETELY UNRESTRICTED

1. Published Works Which Were Never Copyrighted

Anyone may reproduce without restriction works which were never copyrighted.

To determine whether an item has been copyrighted, look at the front pages of the book or periodical for a copyright notice. It consists of the copyright symbol (a letter "c" in a circle, the word "Copyright," or the abbreviation "Copr."), plus the year of first publication and the name of the owner of the copyright. Writings published prior to January 1, 1978 without copyright notices are not protected. "Notice" requirements for works published after that date have been relaxed somewhat with respect to both the position of notices and inadvertent omission of them, so there may be limited protection for some works on which notices do not appear. However, in such instances copiers will not be liable for infringement who did not learn in some other way, prior to copying, that the works were actually copyrighted despite the lack of notices on them.

2. Published Works Whose Copyrights Have Expired

Anyone may reproduce without constraint published works whose copyrights have expired.

All copyrights dated earlier than 1906 have expired. Copyrights dated 1906 or later may have expired because the initial period of copyright protection is for 28 years. We recommend that copiers either assume the protection is still in effect for copyrights dated in 1906 or later, or ask the owners of them (or the U. S. Copyright Office) whether they are still subject to copyright protection. Usually publishers are either the owners or know the owners' locations. If not, owners can be located through the U. S. Copyright Office in Washington, D.C.

3. U. S. Government Publications

U. S. Government publications may be copied freely because they are not copyrightable. This classification consists of documents prepared by an officer or employe of the U. S. Government as part of that person's official duties. It does not extend to documents published by others with the support of U. S. Government grants or contracts. Such items may or may not be copyrighted and teachers should look at the front pages to see if they bear a copyright notice.

C. COPYING WHICH IS PERMITTED

Teachers may reproduce copyrighted works for classroom use and for research without securing permission and without paying royalties when the circumstances amount to what the law calls "fair use." It is generally fair use for teachers to

copy supplementary items for such purposes as filling in missing information or for bringing materials up to date; but fair use is a multi-faceted concept. Courts have not yet interpreted the law, and there is a lively dispute as to the extent of permissible copying, particularly for classroom use. The spirit and letter of these guidelines should be observed.

1. Single Copies

For teaching, including preparation, and for scholarly research, a teacher may make, or have made, a single copy of:

- a. a chapter from a book;
- b. an article from a journal, periodical or newspaper;
- c. a short story, essay or poem;
- d. a diagram or picture in any of those works.

2. Multiple Copies

For one-time distribution in class to students, a teacher may make, or have made, multiple copies if he or she:

- a. makes no more than one for each student; and
- b. includes the notice of copyright (writes it on the first sheet or copies the page on which it appears); and
- c. is selective and sparing in choosing poetry, prose and illustrations; and
- d. makes no charge to the student beyond the actual cost of the photocopying.

The right to make multiple copies is strengthened if the copying will not have a significant effect upon the potential market for the work (this is probably the most important factor), or if there is insufficient time to seek permission from the owner of the copyright.

D. COPYING FOR WHICH TEACHERS SHOULD OBTAIN PERMISSION

1. Repetitive Copying

The "fair use" justification is weakened in the case of photocopying on a repetitive basis for continued use in successive terms.

2. Copying for Profit

Fair use extends only to nonprofit copying. Teachers should not charge students more than the actual cost of photocopying, and should not make copies for students who are not in their own classes, without obtaining permission. Publishers have recognized that fair use extends to classroom copies made and distributed by a commercial copy center.

3. Unpublished Works

One should obtain permission from owners of unpublished works in order to copy from them. The law gives automatic copyright protection to unpublished works from the time they are created until they are published.

4. Consumable Works

Teachers need to secure permission before making multiple copies of copyrighted works which are intended to be consumed in classroom activities such as workbooks, exercises, and standardized tests and their answers.

5. Copying According to an Overall Plan

Teachers may make fair use of copyrighted works if they photocopy upon their own initiative. In most instances it is not fair use to copy according to a plan designed by supervisors, which usually means administrators in the University context.

E. PUBLISHERS' GUIDELINES - MULTIPLE COPIES FOR CLASSROOM USE

The Association of American Publishers asserts that the fair use exception is narrower than the guidelines discussed above. Several copyright infringement suits have been settled based on guidelines developed by the Ad Hoc Committee on Copyright Law Revision. The AAP and others have sued several professors and a university for copyright infringement based on these guidelines. This case was settled with the university agreeing to follow the guidelines below, unless the university's attorney advised that the proposed copying constituted fair use. We believe the Ad Hoc Committee guidelines provide for only the minimum level of copying permitted by the law and that the fair use exception permits copying as described in C above. We recommend following the American Library Association guidelines circulated with a March 7, 1983 memo to Deans, Directors and Department chairs. The Ad Hoc Committee guidelines are as follows:

II. *Multiple Copies for Classroom Use*

Multiple copies (not to exceed in any event more than one copy per pupil in a course) may be made by or for the teacher giving the course for classroom use or discussion; *provided that:*

- A. The copying meets the tests of brevity and spontaneity as defined below; *and,*
- B. Meets the cumulative effect test as defined below; *and,*
- C. Each copy includes a notice of copyright

Definitions

Brevity

(i) Poetry: (a) A complete poem if less than 250 words and if printed on not more than two pages or, (b) from a longer poem, an excerpt of not more than 250 words.

(ii) Prose: (a) Either a complete article, story or essay of less than 2,500 words, or (b) an excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less, but in any event a minimum of 500 words.

[Each of the numerical limits stated in "i" and "ii" above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.]

(iii) Illustration: One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.

(iv) "Special" works: Certain works in poetry, prose or in "poetic prose" which often combine language with illustrations and which are intended sometimes for children and at other times for a more general audience fall short of 2,500 words in their entirety. Paragraph "ii" above notwithstanding such "special works" may not be reproduced in their entirety; however, an excerpt comprising not more than two of the published pages of such special work and containing not more than 10% of the words found in the text thereof, may be reproduced.

Spontaneity

(i) The copying is at the instance and inspiration of the individual teacher, and

(ii) The inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.

Cumulative Effect

(i) The copying of the material is for only one course in the school in which the copies are made.

(ii) Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical volume during one class term.

(iii) There shall not be more than nine instances of such multiple copying for one course during one class term.

[The limitations stated in "ii" and "iii" above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.]

-remaining pages
not included in kit-

UNIVERSITY LIBRARY GENERAL GUIDELINES

COPYRIGHT

0.0 CONTENTS

- 1.0 Scope of Policy
- 2.0 Unrestricted Photocopying
- 3.0 Restricted Photocopying
- 4.0 Appendices

1.0 SCOPE OF POLICY

This policy establishes guidelines for the University of Missouri-Columbia Libraries' (excluding the Law Library) compliance with the Copyright Revision Act of 1976 (Public Law 94-553).

2.0 UNRESTRICTED PHOTOCOPYING2.1 Uncopyrighted Published Works

Writings published before January 1, 1978 which have never been copyrighted may be photocopied without restriction. Copies of works protected by copyright must bear a copyright notice, which consists of the letter "c" in a circle, or the word "Copyright", or the abbreviation "Copr.", plus the year of first publication, plus the name of the copyright owner. 17 U.S.C. sec. 401.

2.2 Published Works with Expired Copyrights

Writings with expired copyrights may be photocopied without restricting. All copyrights prior to 1906 have expired. 17 U.S.C. sec. 304(b).

2.3 Journals

Some journals have waived the copyright law for photocopies made for research, educational, and scholarly purposes. Check the title page of the journal in question to see if the restrictions for copying articles have been lifted.

2.4 U.S. Government Publications

All U.S. Government publications with the possible exception of some National Technical Information Service Publications less than five years old may be photocopied without restrictions, except to the extent they contain copyrighted materials from other sources. 17 U.S.C. sec. 105.

3.0 RESTRICTED PHOTOCOPYING3.1 Unpublished Works

- 3.1.1 Unpublished works, such as theses, dissertations, term papers, class notes, and exams may be protected by copyright. If such a work was created before January 1, 1978 and has not been copyrighted or published

without copyright notice, the work is protected under the new act for the life of the author plus fifty years, 17 U.S.C. sec. 303, but in no case earlier than December 31, 2002. If such a work is published on or before that date, the copyright will not expire before December 31, 2027. Works created after January 1, 1978 and not published enjoy copyright protection for the life of the author plus fifty years. 17 U.S.C. sec. 302.

- 3.1.2 If the author of the unpublished work is present during copying he/she may themselves copy or give permission to others to copy as much of the work (including multiple copies) as is needed. Otherwise, unpublished works are subject to the same photocopying restrictions as published, copyrighted items.

3.2 Copy Service

- 3.2.1 Copy Service personnel will make copies of copyrighted material for patrons and library staff under the principles of fair use. This will be construed to mean a single copy of an article from a periodical or a small part of other works. Copies produced by Copy Service will be stamped "NOTICE: This material may be protected by copyright law (Title 17, U.S. Code)".

3.2.2 Patron-operated Copy Machines

Both those in the copy service area and the coin-operated machines in other parts of the main library or the branches will have signs posted in compliance with the law stating "NOTICE: Warning Concerning Copyright Restrictions. The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be 'used for any purpose other than private study, scholarship, or research.' If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of 'fair use,' that user may be liable for copyright infringement. This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law."

3.3 Interlibrary Loan

- 3.3.1 The libraries will follow the National Commission on New Technological Uses of Copyrighted Works (CONTU) guidelines.
- 3.3.2 The requesting library has the responsibility for making sure that the request conforms to the copyright law and the accompanying guidelines:

For Periodical Article Copies

- A. The library can request no more than 5 copies of "recent" articles (published within 5 years of the date of library's request) from

the same publication within a calendar year. The five copies may be the same article (1 copy per request) or a combination of different articles from that publication.

- B. If the requesting library has a subscription to the requested material, the copy requested will not count as one of the five copies if the material was not available for use at the time of request.
- C. No request may be fulfilled unless the request is accompanied by representation that the request was made within CONTU guidelines.
- D. The library shall maintain records of all request made by it and fulfillment of such requests until the end of the third complete calendar year in which each request is made.

For Other Copyrighted Works

- A. The library may request no more than 5 copies from a given work during any calendar year.
- B. The requested copy does not count as one of the five copies if the requesting library has the material on order but it is not reasonably available.
- C. The guidelines apply not only to materials published within the five years before the request, but to the entire copyright period.

3.4 Library Reserve

3.4.1 At the request of a faculty member, the library may place on reserve photocopied excerpts from copyrighted works in its collection. One copy of an entire article, an entire chapter from a book, or an entire poem may be placed on reserve. Requests for placing multiple copies on reserve should meet the following guidelines:

- A. The amount of material should be reasonable in relation to the total amount of material assigned for one term of a course taking into account the nature of the course, its subject matter, and level.
- B. The number of copies should be reasonable in light of the number of students enrolled, the difficulty and timing of the assignments, and the number of other courses which may assign the same materials.
- C. The material should contain a notice of copyright.
- D. The effect of photocopying the material should not be detrimental to the market for the work. In general the library should own at least one copy of the work.

3.4.2 In addition, a faculty member may request that multiple copies of photocopied, copyrighted material be placed on reserve if there is insufficient time for the individual to obtain permission from the copyright owner.

3.4.3 Reserve use of photocopied materials in multiple courses or successive years will normally require advance permission from the owner of the copyright. Therefore, in order for the library to keep photocopied material on reserve for more than one semester, a faculty member must sign a waiver (provided by the library) stating that he/she assumes the responsibility for obtaining the copyright owner's permission for continued use of the material in a particular course. (See Appendix A)

3.4.4 The library reserves the right to limit the number of copies of an item placed on reserve.

3.5 Preservation

3.5.1 The library may choose to reproduce through photocopying in the case of a book, or taping in the case of a sound recording, a work that has been lost, damaged or stolen if, after a reasonable effort, an unused replacement cannot be obtained at a fair price.

3.5.2 The library may consider making tape masters of all sound recordings for use in making copies if a replacement disc for a damaged or stolen item cannot be obtained at a fair price.

4.0 APPENDICES

4.1 Suggestions for University Faculty and Staff Seeking Permission to Copy

4.1.1 When permission to use photocopied material is required, the American Association of Publishers suggests that the following information be included in a permission request letter:

- A. Title, author and/or editor, and edition of materials to be duplicated.
- B. Exact material to be used, giving amount, page numbers, chapters and, if possible, a photocopy of the material.
- C. Number of copies to be made.
- D. Use to be made of duplicated materials.
- E. Form of distribution (classroom, reserve, etc.).
- F. Whether or not the material is to be sold.
- G. Type of reprint (ditto, photography, offset, typeset).

4.1.2 The request should be sent, together with a self-addressed return envelope, to the permissions department of the publisher in question.

4.1.3 The copyright Clearance Center also has the right to grant permission and collect fees for photocopying rights for certain publications. An individual may copy from any journal which is registered with the CCC and report the copying beyond fair use to CCC and pay the set fee. A list of publications for which the CCC handles fees and permissions is available from the CCC, 310 Madison Avenue, New York, N.Y. 10017.

4.1.4 Sample letter to copyright owner (publisher) requesting permission to copy follows:

(Date)

Material Permissions Department
Hypothetical Book Company
500 East Avenue
Chicago, Illinois 60601

Dear Sir or Madam:

I would like permission to copy the following for continued use in my classes in future semesters:

Title: Learning is Good, Second Edition

Publisher and Copyright Date: Hypothetical Book Co., 1980

Author: Frank Jones

Material to be Duplicated: Chapter 16
(Photocopy enclosed)

Number of copies: 5

Distribution: The material will be placed on reserve at the main university library.

Type of reprint: Photocopy

Use: The chapter will be used as supplementary teaching material.

I have enclosed a self-addressed envelope for your convenience in replying to this request.

Sincerely,

Faculty Member

4.2 National Commission on New Technological Uses of Copyrighted Works (CONTU) Guidelines for the Proviso of Subsection 108(G) (2) (2) (U.S. House of Representatives, Report No. 94-1733, Sec. 108)

4.2.1 As used in the proviso of subsection 108 (g) (2), the words . . . "such aggregate quantities as to substitute for a subscription to or purchase of such work" shall mean:

A. With respect to any given periodical (as opposed to any given issue of a periodical), filled requests of a library or archives

(a "requesting entity") within any calendar year for a total of six or more copies of an article or articles published in such periodical within five years prior to the date of the request. These guidelines specifically shall not apply, directly or indirectly, to any request of a requesting entity for a copy or copies of an article or articles published in any issue of a periodical, the publication date of which is more than five years prior to the date when the request is made. These guidelines do not define the meaning, with respect to such a request, of "... such aggregate quantities as to substitute for a subscription to (such periodical)".

- B. With respect to any other material described in subsection 108(d), (including fiction and poetry), filled requests of a requesting entity within any calendar year for a total of six or more copies or phonorecords of or from any given work (including a collective work) during the entire period when such material shall be protected by copyright.

4.2.2 In the event that a requesting entity--

- A. shall have in force or shall have entered an order for a subscription to a periodical, or
- B. has within its collection, or shall have entered an order for, a copy or phonorecord of any other copyrighted work, material from either category of which it desires to obtain by copy from another library or archives (the "supplying entity"), because the material to be copied is not reasonably available for use by requesting entity itself, then the fulfillment of such request shall be treated as though the requesting entity made such copy from its own collection. A library or archives may request a copy or phonorecord from a supplying entity only under those circumstances where the requesting entity would have been able, under the other provisions of section 108, to supply such copy from materials in its own collection.

4.2.3 No request for a copy or phonorecord of any material to which these guidelines apply may be fulfilled by the supplying entity unless such request is accompanied by a representation by the requesting entity that the request was made in conformity within these guidelines.

4.2.4 The requesting entity shall maintain records of all requests made by it for copies or phonorecords of any materials to which these guidelines apply and shall maintain records of the fulfillment of such requests, which records shall be retained until the end of the third complete calendar year after the end of the calendar year in which the respective request shall have been made.

4.2.5 As part of the review provided for in subsection 108(i), these guidelines shall be reviewed not later than five years from the effective date of this bill.

APPENDIX A

(Date)

I, _____, from the UMC _____
(name) (school or department)

assume total responsibility for obtaining permission from the appropriate copy-right owner in order that the items listed below may be placed on reserve in the UMC library system for continued use by _____
(class number and title)

in future semesters beginning with _____
(semester and year)

(signature)

<u>AUTHOR</u>	<u>TITLE</u>	<u>PUBLICATION SOURCE</u>	<u>PUBLISHER</u>	<u>DATE OF PUBLICATION</u>
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VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY

USER SERVICES DEPARTMENT CAROL M. NEWMAN LIBRARY 703 961-5354
Blacksburg, Virginia 24061

10 June 1982

Ms. Jane Brandt, Legal Counsel
218 Burruss Hall

Dear Jane:

I appreciate your taking the time to advise me on the library's interpretation of the copyright law and its implications for our policies. I've always felt that our restrictions were based on a somewhat narrow interpretation of fair use and an unrealistic assessment of whether more liberal policies would affect potential sales and royalties, but have been loath to liberalize our policies without legal advice. I am glad to learn that major research libraries are generally much more liberal and that your opinion and that of other experts support the legality of less restrictive practices. Certainly the recent ALA Model Policy Statement provides reassurance for us in changing our policies.

I propose the following changes. I would hope to implement them as soon as I have received your formal approval and that of the Library Director.

1. Old Rule: No more than one copy of an article or chapter of a book may be placed on reserve.

Proposed Rule: The number of copies allowed on reserve will be based primarily on class size. I will formulate guidelines based on storage space and photocopy expenses; I would anticipate something on the order of one copy per twenty students. No more than six copies will be allowed in any event.

Rationale: Guidance of the Model Policy Statement and recognition that it would be extremely unlikely in any event that the library would place multiple subscriptions to meet reserve demand or that students would place their own subscriptions (e.g., potential to affect sales from point of view of fair use). Also based on legislative history of 17 USC 101, which makes it clear that current restrictions are inconsistent with the intent of Congress.

2. Old Rule: No more than one article from a periodical issue or one chapter from a book may be photocopied for reserve use, for Interlibrary Loan, or for photocopy patrons.

Proposed Rule: Copies of articles for any of the above purposes may not exceed half a periodical issue. No more than one article may be copied from a current issue. No more than one chapter in a book in print may be copied. An absolute prohibition against photocopying consumables such as workbooks will continue.

Rationale: The situation resembles that of multiple copies in its effect on potential sales; practices of other research libraries.

3. Old Rule: No more than five articles from the past five year's publications of a periodical will be requested by Interlibrary Loan, unless the library has a subscription and issues are missing.

Proposed Rule: We will suspend the book-keeping system used to enforce this rule, thus eliminating the practice.

Rationale: Legislative history of USC 17 101 and reasonable assurance that since reference librarians review ILL requests as a guide to collection development, we would not engage in wholesale borrowing for an extended period, but would place a subscription.

4. Old Rule: We will photocopy an entire copyrighted work only if it is not in print and cannot be obtained from o.p. dealers.

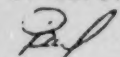
Proposed Rule: We will photocopy an entire copyrighted work if it is not listed in Books in Print.

Rationale: The library does not ordinarily engage in extended searches for out-of-print materials, so that the prospect that individual demands for such materials would lead to sales are slim indeed (potential impact on sales from point of view of fair use).

We propose to continue our practice of accommodating requests for reserve placements in consecutive quarters. Because we view a class and its instructor as separate clientele, we will also continue to send an additional copy of reserve articles to teaching faculty, on request.

Thanks again for your well-informed advice. Please let me know whether these proposals strike you as reasonable, bearing in mind that we would prefer to err on the conservative side.

Sincerely,



Paul Metz
User Services Librarian

UNIVERSITY OF VIRGINIA
FINANCIAL POLICY MANUAL

TITLE: COPYING OF COPYRIGHTED MATERIAL:
INFRINGEMENT

POLICY: XV.F.7.

University employees could be subject to lawsuits for violating copyright laws or for exceeding the "fair use" guidelines, even if the infringement is innocently committed.

To prevent or restrain infringement of a copyright, a court may grant an injunction on such terms as it may deem reasonable. The court may also impound copies or phonorecords claimed to be infringing, or as part of a final judgment, destroy all copies or phonorecords which are in violation of a copyright owner's exclusive rights. An infringer of a copyright will also be liable for the copyright owner's actual damages plus any additional profits of the infringer. When monetary damages are minimal, a copyright owner may elect "statutory" damages which can range from \$250 to \$10,000 or up to \$50,000 if the infringement is willful. The court would determine a "just" amount. If the infringer sustains the burden of proof, and the court finds the infringer was not aware and had no reason to believe his or her acts constituted an infringement, the court may reduce the statutory damages to a sum or not less than \$100. In addition, the court may, in its discretion, allow recovery of full costs against any party and award reasonable attorney's fees to the prevailing party.

Even if an infringement occurs, monetary damages should be minimal if an employee attempts to comply with the fair use guidelines. The fair use guidelines do not allow an employee to make enough reproductions to seriously affect the market sales of a copyrighted work. If a court decides an employee did infringe on a copyright, the court will probably issue an injunction to stop the reproducing, even if actual or statutory damages are not awarded.

The Copyright Act specifically exempts from statutory damages any employee or agent of a nonprofit educational institution, library, or archives acting within the scope of his or her employment who believed or had reasonable grounds for believing his/her reproduction of a copyrighted work constituted a fair use. Complying with the guidelines set forth in these Policy Statements (XV.F-XV.F.7) should provide adequate grounds to support the fair use exemption.

For works published after 1977, employees should not rely on the absence of copyright notice in determining whether a work is protected. The law provides several ways for copyright owners to protect their rights even without the notice. Absence of a copyright notice on works published before 1978 generally means the work is in the public domain and, therefore, is not protected. Any person who can prove he/she innocently infringed on a copyright in reliance on the lack of a copyright notice would incur no liability for actual or statutory damages. The court may, however, recover the infringer's

UNIVERSITY OF VIRGINIA
FINANCIAL POLICY MANUAL

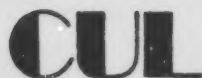
TITLE: COPYING OF COPYRIGHTED MATERIAL:
INFRINGEMENT

POLICY: XV.F.7.

profits and may either stop the infringement or require the infringer pay a reasonable fee to continue reproducing. Since reliance on the lack of notice may be difficult to prove, employees should not assume that works published after 1977 without a notice are free from copyright restrictions.

The University has taken extensive measures to warn employees about copyright infringements, and the University may take disciplinary action against employees who violate copyright law. Each employee is deemed to know the law and employees who reproduce beyond the fair use guidelines do so at their own risk. In appropriate cases, a defense may be provided to employees who innocently infringe on copyrights, but employees should not depend on a defense or indemnification, if University guidelines are not followed.

LIBRARY RESERVE ROOM POLICIES



columbia university
libraries

LIBRARIES SERVICES
POLICY MANUAL

part: XIV section: III

POLICY: RESERVES - Copyright law and reserves

The following are guidelines which Reserves must follow in order to comply with the copyright law, effective January 1, 1978.

1. One copy can be made under the "fair use" doctrine, as before.
2. We will continue to request permission to copy before any articles from journals are copied. We assume that a permission already granted is valid until the publisher rescinds it. The file of such permissions is in the College Library.
3. When a professor brings in multiple copies of material he has photocopied himself, each copy is to be stamped, "Property of _____" and all copies returned to the professor at the end of the reserve period.



columbia university
libraries

LIBRARIES SERVICES
POLICY MANUAL

part: XIV section: I

POLICY: RESERVES - Copyright Permissions File

All correspondence relating to requests for permission to photocopy journal articles for reserve are the responsibility of the Columbia College Librarian. A central file of permissions received or denied is maintained by College with copies sent to departmental libraries when necessary. In the event that the publisher requires a request for each instance, rather than the issuance of blanket permission for the journal title, such a decision is recorded in the College file and notification is sent to the requesting departmental library. The departmental library is then responsible for the additional correspondence.



Southern Illinois
University at Carbondale
Carbondale, Illinois 62901

Morris Library

October 3, 1983

TO : Teaching Faculty

FROM : Judith A. Harwood, Undergraduate Librarian ^{PH}
Regina Shelton, Reserve Room Supervisor ^{RS}

SUBJECT : Reserve Lists for Spring 1984

DATE DUE : November 1, 1983

Please observe deadline!
Processing time is limited
because Morris Library will
be closed a substantial
portion of Christmas break.

WHITE FORM : List all BOOKS to be placed on reserve.

- a. One copy of each title is normally provided. If justified, additional copies are ordered on request.
- b. One copy of each recommended text, if not in library, can be ordered.
- c. One or more copies of required texts can be reserved only if in library.
(Exception: One copy of each required General Studies text is placed on reserve without instructors' request.)
- d. Personal books are accepted for reserve at owner's risk.

YELLOW FORM: List complete citation for JOURNAL ARTICLES and SIGN the form.

INFORMATION: Regina Shelton, 453-2030, or Judy Harwood, 453-2818

PROCEDURES REGARDING PHOTOCOPIES ON RESERVE

Single photocopies for one-time use: The library will accept or make one photocopy of a journal article for first-time, one-semester use and designate it as "Personal Photocopy." Such photocopies are limited to one article per journal issue. At the end of the semester they will be returned to the requesting instructor.

Single photocopies for repeated use: If single photocopies are to be used repeatedly for the same course, the library will:

- a. Place photocopies on reserve immediately while copyright clearance is pending.
- b. Obtain photocopying permission from the copyright owner, or purchase offprints, or purchase the respective journal issue.

Multiple photocopies always require copyright clearance. The library will:

- a. Place one photocopy of each article on reserve immediately.
- b. Obtain photocopying permission from the copyright owner, or purchase offprints, or purchase the respective journal issue.
- c. Add remaining photocopies when clearance has been received, or place offprints on reserve, or place specially purchased journal article on reserve.

COPYRIGHT PROCEDURES FOR RESERVES

Be sure to adhere to the following procedures when dealing with reserve materials.

1. In sending out reminders to the instructional staff regarding the submittal of reserve lists and photocopied materials, reserve units should include the following notice on correspondence:

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material.

In accepting photocopies for reserve the library assumes that the copy or copies have been made in compliance with the Fair Use provisions of Section 107.

(See University of California Libraries--Guidelines for Implementation of the Copyright Act of 1976, Berkeley, California, 1978.)

2. You may make a single copy for reserve use. When you make a single copy of a copyrighted work, make sure the following notice is included on the reproduction of the work:

NOTICE: This material may be protected by copyright law.
(Title 17, U.S. Code)

Stamp copy with current date. DO NOT MAKE MULTIPLE COPIES.

3. The library will return all photocopied material (single and/or multiple copies) after the initial academic period for which it was submitted and used in order to be in compliance with the copyright guidelines with regard to "spontaneity."
4. Single copies of "readers" photocopied for class use should be treated as personal copies and should not be added to the collection unless proof of continued use permission is included. The library will not purchase "readers" for its collection.

5. If faculty ask how to obtain permission to make multiple copies you may suggest they use the following sample letter as a guide:

Material Permissions Department
Hypothetical Book Company
500 East Avenue
Chicago, Illinois 60601

Dear Sir or Madam:

I would like permission to copy the following for continued use in my classes in future semesters:

Title: Learning is Good, Second Edition
Copyright: Hypothetical Book Company
Author: Frank Jones
Material to be duplicated: Chapters 10,11 and 14
(photocopy enclosed)
Number of copies: 500
Distribution: The materials will be distributed only to students in my classes and they will pay only the cost of the photocopying.
Type of reprint: Photocopy
Use: The chapter will be used as supplementary teaching materials.

I have enclosed a self-addressed envelope for your convenience in replying to this request.

Sincerely,

Faculty Member

UCLA LIBRARY

Admin. Memo. No. E-12
May 1, 1982

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SECTION 1. RESERVE OPERATIONS.

1.1. Units of the UCLA Library will place single and multiple copies of copyrighted materials on reserve when received from the instructional staff.

1.1.1. In accepting copies for reserve it will be the understanding of the UCLA Library that the copy or copies have been made in compliance with Section 107 of the Copyright Law of the United States. [Ref. Memorandum from the Chancellor to Academic Staff, dated April 3, 1978, attached as Appendix A.]

1.1.2. When sending out reminders to the instructional staff regarding the submittal of reserve lists and photocopied materials, units will include the following notice on their correspondence:

The Copyright Law of the United States (Title 17, United States Code) governs the making of photocopies or other reproduction of copyright materials.

In accepting photocopies for reserve the UCLA Library assumes that the copy or copies have been made in compliance with the Fair Use Provision (Section 107) of that law.

Chancellor Young, in his letter to the Academic Staff dated April 3, 1978, outlined the rules governing the copying of materials for educational use, and the related policies adopted by the Library under the Copyright Law.

Questions regarding the interpretation of the Copyright Law may be addressed to the Office of the Campus Counsel, 2241 Murphy Hall, at Extension 54042. Assistance in obtaining permission to copy materials which you feel cannot, under the law, be copied without permission may be requested of the Office of Contract and Grant Administration, 3109 Murphy Hall, at Extension 54031.

1.2. Units of the UCLA Library may, when requested, make single copies of copyrighted materials for the instructional staff for placement on reserve, provided that such copying conforms to the provisions of Section 107 of the Copyright Law and to the provisions of the Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions, Section 1 [see Appendix A/5-A/7.] The following notice of copyright must be included on the reproduction of the copyrighted work:

-5-

NOTICE: This material may be protected by
copyright law (Title 17, U.S. Code).

- 1.3. Units of the UCLA Library, other than Library Photographic Service, will not make multiple copies for reserve.
- 1.4. Units of the UCLA Library, will, at the end of the period of first reserve use, return to the owning member of the instructional staff any copies which had been presented for placement on reserve, except that, if desired by instructional staff, single copies may be retained by library units. Such copies will be returned to instructional staff under cover of the appropriate form memorandum, examples of which are attached as Appendix B/4 and B/5. The donor of the material will have been informed in advance that the material will be placed on reserve for the current course only. [Ref. memorandum from Ruth B. Gibbs, May 15, 1981, entitled "Reuse of Photocopied Materials for Reserve Purposes," attached as Appendix B.]

May 15, 1981

[Memorandum from Ruth B. Gibbs to Unit Heads]

TO: Unit Heads

FROM: Ruth B. Gibbs
Associate University Librarian
(Research & Instructional Services)

SUBJECT: Reuse of Photocopies or Other Reproductions of Materials for
Reserve Purpose

The University Library was advised in 1979 by the University's General Counsel, through then UCLA Assistant Chancellor/Legal Coordinator Alan Charles, that reuse for subsequent course reserve of multiple photocopies or other reproductions already made and used for one course may constitute infringement of the Copyright Act of 1976, since such use would go beyond the intent of the "Cumulative Effect" test set forth in the "Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions with Respect to Books and Periodicals," Section II, "Multiple Copies for Classroom Use." Retention in reserve collections of multiple photocopies or other reproductions and their continued circulation to users is considered violative of the Copyright Law [Section 108(g)], since such retention and circulation would constitute "concerted distribution of multiple copies." The development and retention of such collections would go well beyond the use foreseen for such materials when they are received for single course reserve purposes. At the same time, Assistant Chancellor Charles informed us that retention and reuse of single copies for reserve purposes is, in his opinion, permissible under provisions of fair use and does not go beyond the intent of the "Cumulative Effect" test referred to above.

This is a reminder that the following policies and procedures in the UCLA Library with respect to this remain in effect in all units maintaining reserve collections and services. These instructions apply to any photocopies or other reproductions presented for reserve purposes, whether in single or multiple quantity.

(1) Under provisions of Section 1.1. of UCLA Library Administrative Memorandum no. E-12 (Library Policies, Procedures, and Guidelines Concerning the Making and Provision of Photocopies or other Reproductions of Copyrighted Material), units of the UCLA Library may continue to place single or multiple photocopies or other reproductions of copyrighted materials on reserve when received from the instructional staff.

(2) Upon receipt of such materials, reserve staff must inform the donor (member of instructional staff) that the copy or copies will be placed on reserve for the current course only and will be returned to the faculty member at the conclusion of the current reserve period. Such notice must also be incorporated into or otherwise associated with units' Reserve Request Forms.

(3) Upon completion of the course reserve period, units shall remove from the shelves all photocopies or other reproductions received for reserve

use and return them to the faculty member who presented them. An exception to this rule may be made in the case of single copies which may be retained if so requested by instructional staff.

(4) Units are not required to monitor or question the future presentation of such multiple copies (beyond the statement in (2), above), in order to prevent reuse of the same copies. It continues to be the faculty member's responsibility to determine whether the use made of a work in any particular case is a fair use and in compliance with the Copyright Law. However, if a unit has reasonable cause to suspect that reuse is in fact occurring through repeated presentation of the same copies, that concern should be brought to the attention of the Associate University Librarian for Research and Instructional Services.

(5) If any faculty member questions the policy of returning these materials after the course reserve period, he or she should be informed that the Library has been instructed that any repeated use of multiple photocopies or other reproductions may constitute infringement of copyright. The faculty member should be referred to the Office of the Campus Counsel (2241 Murphy Hall, Ext. 54042) for further explanation and clarification. Unit heads are reminded that library staff members are specifically relieved of any responsibility for interpretation of the Copyright Law. The policies and procedures enunciated in 1-5, above, apply to copies of all publications, without exception, and all questions having to do with interpretation should be referred to the Campus Counsel.

As a further aid in dealing with any problems which may arise you are referred to the memorandum of August 10, 1978, addressed to Unit Heads from Russell Shank, dealing with the Chancellor's letter to the Academic Staff Regarding Copyright.

[FORM MEMORANDUM TO FACULTY RE: RETURN OF MULTIPLE PHOTOCOPIES FROM RESERVE]

Dear Faculty Member:

In order to insure that the Library is in compliance with the Fair Use Provision of the United States Copyright Law (Section 107), we are herewith returning to you all multiple copies of photocopied materials which you placed on reserve during the recently completed academic term. The Copyright Law and its Guidelines, as interpreted by the General Counsel of the Regents of the University of California, allow us to retain only single copies of photocopied material.

However, if you wish to have the first copy also returned to you, please notify us and we will be happy to return the remaining item(s) to you.

Any reuse for subsequent course reserve of these same materials might constitute an infringement of the Copyright Law, since such use would be regarded as systematic distribution which went beyond the intent of the "Cumulative Effect" test set forth in the "Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions with Respect to Books and Periodicals." Permission must be obtained from the copyright holder if you intend to use these materials again in the future. Assistance in obtaining such permission may be requested of the Office of Contact and Grant Administration, 3109 Murphy Hall, at Extension 54031.

Questions regarding the interpretation of the Copyright Law may be addressed to the Office of the Campus Counsel, 2241 Murphy Hall, at Extension 54042.

Thank you for your cooperation.

Sincerely,

UNIVERSITY LIBRARIES
UNIVERSITY OF COLORADO AT BOULDER
BOULDER, COLORADO 80309

REVISED

RESERVE GUIDELINES

COMPLYING WITH THE COPYRIGHT LAW (TITLE 17, U.S. CODE)

1. To place a reproduction of copyrighted material on Reserve, the faculty member must supply the reproduction and sign a statement that he believes he is complying with the copyright law.
2. Photocopying for faculty, students, staff, and the general public will be done by Library personnel at only three (3) service points: (1) the Colorado Technical Reference Center, (2) the Interlibrary Loan Department, and (3) the Photoduplication Department (nonprint materials may be copied at the Audio-Visual/Reserve Department). Library personnel are not permitted to use unsupervised copying machines in any Library facility to make reproductions for patrons.
3. Multiple copies of a reproduction may be placed on Reserve provided that the number of copies does not exceed the number of students in the class and that the reproduction meets the criteria set forth in the "Agreement on Guidelines for Classroom Copying in Not-for Profit Educational Institutions." Because of space restrictions, Worlin Reserve will limit to six (6) the number of copies of a reproduction placed on Reserve for a single class.
4. If a faculty member wants to place a reproduction on Reserve more than once, he must resubmit the reproduction and sign a statement that he believes he is complying with the copyright law.
5. The Library will supply information on how to obtain a copyright release. Obtaining a release, if desired, is the responsibility of the faculty member.

CCW/VPB/eff
7/26/78

RESERVE

No photocopies will be made by library personnel except one single copy made to preserve library materials, e.g. a copy of an encyclopedia article to prevent wear and tear on our volume of the encyclopedia.

Often teaching faculty supply photocopies to be placed on reserve.

1. Any copies of uncopyrighted materials can be accepted. See Section III under the general rules.
2. Single photocopies of any of the following or multiple copies of up to nine separate items on the following list may be accepted:

- a chapter
- an article
- a short story
- a graph, chart or picture
- a short poem
- a short essay

3. Multiple copies can be accepted for one semester or session only and will be returned at the end of the semester together with a copy of the appropriate guideline.
4. The following items cannot be accepted for reserve if they are a copyrighted item:

- workbooks
- tests and test booklets
- answer sheets

When multiple copies are accepted under Section 3 above, the instructor depositing the material must sign the attached release.

RELEASE FORM FOR RESERVE

I certify that the multiple photocopies I am placing on reserve meet the conditions of the Copyright Law (PL 94-553) and that they are for educational classroom use, that they will be used for one semester or session only, that permission to copy has been sought from the copyright owner or that there has not been time to obtain such permission or to purchase the material, that I have not requested multiple copies of more than one short poem, article, story, essay or excerpt from the same author nor more than three from the same collective work or periodical volume during one semester or session.

I have not exercised the right of placing multiple photocopies on reserve of any copyrighted work more than nine times in this semester or session and to the best of my knowledge the materials requested herewith have not been copied for any other class in this institution.

DATED _____

SIGNATURE OF INSTRUCTOR

SEMESTER: Spring 1978 (781)

UNIVERSITY OF VIRGINIA
FINANCIAL POLICY MANUAL

TITLE: COPYING OF COPYRIGHTED MATERIAL:
COPYING FOR RESERVE

POLICY: XV.F.5.

Copying for Private Study, Research, or Scholarship

Note: The following discussion applies both to copies of printed material, pictorials or graphic works used as illustrations, diagrams, etc., and to phonorecords.

Note: Copying is not allowed for musical works, pictorials, graphic or sculptural works, motion pictures, or other audiovisual works unless permission is obtained from the copyrighter or as provided below.

Copying is allowed when:

- use is for private study, research, or scholarship, and
- copyright notices are included in the copy.

One copy is allowed if:

- for non-commercial usage, and
- the library is open to the public for research, and
- copyright notices are included.

One copy of no more than one part of a copyrighted collection or article (from either the supplying library or from another library) is allowed if:

- an assurance is given the use is only for private study, research, or scholarship, and
- copyright notices are displayed at the copy center/copy machine and on the copy order forms.

Unpublished works can be copied for preservation and security, given certain limitations. Published works damaged, deteriorating, stolen, etc., may be copied, if an unused portion reasonably** cannot be obtained at a fair price.

The entire work may be copied if:

- a printed copy reasonably** cannot be obtained at a fair price, and
- use is for study, scholarship or research, and
- copyright notices are used as required on copying machines/copy centers, the order form, and the copy.

UNIVERSITY OF VIRGINIA
FINANCIAL POLICY MANUAL

TITLE: COPYING OF COPYRIGHTED MATERIAL:
COPYING FOR RESERVE

POLICY: XV.F.5.

** Reasonable effort is defined as a search of common trade sources in the United States, and inquiries to the publisher and copyright holder.

Copying for the Reserve Room

At the request of a faculty member, a library may photocopy and place on reserve excerpts from copyrighted works in its collection in accordance with guidelines discussed above. These guidelines apply to the library reserve shelf as it functions as an extension of classroom readings or reflects an individual student's right to photocopy for his personal scholastic use under the doctrine of fair use. In general, librarians may photocopy materials for reserve room use for the convenience of students both in preparing class assignments and in pursuing informal educational activities which higher education requires, such as advanced independent study and research.

If the request calls for only one copy to be placed on reserve, the library may photocopy an entire article, or an entire chapter from a book, or an entire poem. Requests for multiple copies on reserve should meet the following guidelines:

the amount of material should be reasonable in relation to the total amount of material assigned for one term of a course taking into account the nature of the course, its subject matter and level,

the number of copies should be reasonable (generally less than six) in light of the number of students enrolled, the difficulty and timing of assignments, and the number of other courses which may assign the same material,

the material should contain a notice of copyright,

the effect of photocopying the material should not be detrimental to the market for the work. (In general, the library should own at least one copy of the work.)

the copied material should meet the tests of brevity, spontaneity, and cumulative effect.

See also Policy XV.F.1. "Copying of Copyrighted Material: Photocopying"

See also Policy XV.F.6. "Copying of Copyrighted Material: Obtaining Copyrighter's Permission"

UNIVERSITY OF VIRGINIA
FINANCIAL POLICY MANUAL

TITLE: COPYING OF COPYRIGHTED MATERIAL:
COPYING FOR RESERVE

POLICY: XV.F.5.

NOTE: The copied work should be limited to only one course for one semester. Also, such copying is not to be repeated under the same circumstances term after term.

In addition, a faculty member may also request that multiple copies of photocopied, copyrighted material be placed on the reserve shelf if there is insufficient time to obtain permission from the copyright owner. For example, a professor may place on reserve several photocopies of an entire article from a recent issue of TIME magazine or the NEW YORK TIMES in lieu of distributing a copy to each member of the class. If you are in doubt as to whether a particular instance of photocopying is fair use in the reserve reading room, you should seek the publisher's permission. Most publishers will be cooperative and will waive any fee for such a use.

Interlibrary Arrangements

In light of US Code 17, Subsection 108 (g) (2), the following guidelines are suggested on interlibrary copying:

Supplying libraries should not fill requests from any one requesting entity in any one calendar year for more than five article(s) from any one periodical published within five years of the date of request.

Supplying libraries should not fill requests from any one requesting entity in any one calendar year for more than five copies from any given work or collective work during the copyright period.

Supplying libraries should treat filling a request as though the requesting entity made the copies itself, if the requesting entity:

has a subscription or has ordered a subscription to a periodical, but the material in question is not readily available, or

has in its collection, or has ordered the copyrighted work, but the material in question is not readily available.

Note: The Legal Adviser has stated that Alderman Library and its branches are separate libraries from the Law, GSBA, and Health Sciences Libraries.

Note: All other provisions/restrictions of Section 108 still apply as explained in this policy.

All requests must state they conform to these guidelines, if the request is to be fulfilled.

UNIVERSITY OF VIRGINIA
FINANCIAL POLICY MANUAL

TITLE: COPYING OF COPYRIGHTED MATERIAL:
COPYING FOR RESERVE

POLICY: XV.F.5.

The requesting entity must maintain records of all such requests and fulfillments of requests for any one calendar year for a period of another three complete calendar years.

Additional Remarks

Excluded from the constraints of the guidelines are:

- audiovisual news programs, or,
- unpublished works, or,
- published works not available at a fair price, or,
- prior contractual obligations agreed to by the library and the copyrighter or publisher.

Fair use does not extend to:

- libraries making multiple copies of works, except as described above,
- libraries copying works instead of obtaining subscriptions,
- libraries copying works instead of purchasing works, or
- libraries copying audiovisual or related works outside of prescribed guidelines mentioned above.

See University Policy XV.F.3. "Copying of Copyrighted Material: Videotaping."

COPYING PROCEDURES AND COPYRIGHT LAW - page 4Reserve Copying

Since the section 107-108 guidelines apply only to the making of single copies, librarians are reminded that they may not make multiple copies for reserve reading unless the permission of the copyright holder has been obtained, nor may they accept multiple copies from a faculty member. Should multiple copies be made or accepted, the library must have written verification that the copyright holder has given permission. It is the responsibility of the requesting faculty member to gain permission from the copyright holder for making use of multiple copies. Each copy must bear "notice of copyright". Copies may not be re-used for another term without permission, unless a "blanket permission" (covering all contingencies) was granted originally. Libraries may make one copy of an article for reserve, and may accept one copy from a faculty member; the latter copy will remain the property of the faculty member and will be so marked. The faculty member's copy will be returned at the end of the semester.

The background for this policy appears in Subsection 108g of the Copyright Law, which says:

The rights of reproduction and distribution ... extend to the isolated and unrelated reproduction or distribution of a single copy ... of the same material on separate occasions, but do not extend to cases where the library or archive:

1. is aware or has substantial reason to believe that it is engaging in the related or concerted reproduction of multiple copies ... of the same material, whether made on occasion or over a period of time and whether intended for aggregate use by one or more individual members of a group; or
2. engages in the systematic reproduction or distribution of single or multiple copies ... of material ...

This policy applies to both in-print and out-of-print materials.

Appendix D - Copyright Clearance

This is the text of a memorandum that the Provost and the General Counsel requested the University Librarian to prepare and issue to faculty and academic staff for their guidance in making and requesting photocopies for Reserve or classroom use.

PHOTOCOPY GUIDELINES



columbia university
libraries

LIBRARIES SERVICES
POLICY MANUAL

part: XIX section: I

POLICY: PHOTOCOPYING MACHINES - Copyright law and photocopying machines

- 1) Each self service copy machine should have this notice posted:

"Notice: The copyright law of the United States (Title 17 U.S. Code) governs the making of photocopies of copyrighted material. The person using this equipment is liable for any infringement. Copies of the Copyright Law are available at the reference desks in Butler, Engineering, Health Sciences, Law and Lehman Libraries."

- 2) Where the Libraries have staff members operating photocopy machines (i.e., mediated machines), the operator should stamp the first page of copies made with a message indicating that the material may be subject to copyright regulations. Manuscripts are included. Rubber stamps have been distributed to Health Sciences, Rare Book and Reprography reading, "Notice: This material may be protected by copyright law (Title A U.S. Code)."

- 3) In addition, signs will be placed near mediated machines:

"Notice: Warning Concerning Copyright Restrictions. The copyright law of the United states (Title 17, United states Code) governs the making of photocopies or other reproductions of copyrighted material. Under certain conditions specified in the law, libraries and archives ar authorized furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement. This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of the copyright law.

Copies of the copyright law are available at the reference desks in Butler, Engineering, Health Sciences, Law and Lehman Libraries."

May 1, 1982

University of California, Los Angeles

LIBRARY POLICIES, PROCEDURES, AND GUIDELINES CONCERNING
THE MAKING AND PROVISION OF PHOTOCOPIES OR OTHER REPRO-
DUCTIONS OF COPYRIGHTED MATERIAL

1. Purpose: To state the Library's policies, procedures, and guidelines governing the making of photocopies or other reproductions of copyrighted material, with particular respect to the provisions of the Copyright Revision Act of 1976 (Public Law 94-553, revising the Copyright Law of the United States, Title 17, U.S. Code) (effective January 1, 1978).
2. General Policy: It is the general policy of the UCLA Library to formulate, implement, and maintain, insofar as possible, uniform policies, procedures, and guidelines throughout the library system with respect to copyright law compliance, as it applies to the reproduction of library materials.

It is further the policy of the UCLA Library to make and provide, upon request and under specific conditions, photocopies or other reproductions of copyrighted works. Such reproductions shall be made in conformity with provisions of the Copyright Law of the United States and with the guidelines published in association with the Copyright Revision Act of 1976, which are intended to provide guidance in the application of appropriate sections of the law. These reproductions shall be made according to the specific policies, procedures, and guidelines set forth below. However, units of the UCLA Library are not required by these policies to provide copies of any library materials, copyrighted or not, and may restrict their copying for reasons not related to the provisions of the Copyright Law of the United States and the associated guidelines, e.g., special restrictions imposed by donors, by authors of UCLA masters theses and doctoral dissertations, or by oral history interviewees; fragility of materials, etc.

It is further the policy of the UCLA Library to provide reproducing equipment for the unsupervised use of library patrons. All such equipment shall, as required by the Copyright Law, display notices that the making of photocopies or other reproductions of copyrighted materials is governed by provisions of the Copyright Law and that persons using the equipment are liable for any infringement.

It is further the policy of the UCLA Library that units may accept and may process orders from members of the UCLA instructional staff for the copying of materials, and may accept from them copies of copyrighted materials for use on reserve, with the understanding that the copy or copies are being or have been made in compliance with the Copyright Law of the United States.

It is further the policy of the UCLA Library that, beyond those procedures which the law very clearly mandates libraries to perform, the burden of responsibility for affirming compliance with the law should be placed upon the library user. With respect to this policy, members of the Library staff are not authorized to respond to questions from library users concerning interpretation of the Copyright Law of the United States or to requests for assurance about compliance with that law. Such questions or requests from UCLA staff or students should be referred to the Office of the Campus Counsel (2241 Murphy Hall, ext. 54042). Requests from UCLA staff and students for assistance in obtaining permission to copy materials should be referred to the Office of Contract & Grant Administration, (3109 Murphy Hall, ext. 54031).

SECTION 9. COPYING FOR A REPLACEMENT OR ADDITION TO LIBRARY COLLECTION.9.1. Copying of an Entire Published Work for Replacement or Addition to the Collection:

Units of the UCLA Library may copy or have a copy made of an entire published and copyrighted work for purposes of replacement or addition to the collection, under the following conditions:

- 9.1.1. The work must be out-of-print or otherwise unobtainable.
- 9.1.2. In accordance with Sections 108(c) (for replacements) and 108(e) (for additions), a reasonable effort must have been made prior to copying, to determine that an unused copy cannot be obtained at a fair price. A "reasonable effort" will vary according to the circumstances of a particular situation.

It will always require recourse to commonly-known trade sources in the United States and in the normal situation also to the publisher or other copyright owner (if the owner can be located at the address listed in the copyright registration), or an authorized reproducing service.

- 9.1.3. The copy will become the property of the Library to be used solely for private study, scholarship, or research and will bear a notice of copyright.
- 9.1.4. Records of the Library's efforts to comply with the guidelines noted in 9.1.2., above, must be retained until the end of the third complete calendar year after the end of the calendar year in which the records were created.

9.2. Copying of a Portion of a Work to Replace a Missing or Damaged Part of a Work:

Units of the UCLA Library may copy or have a copy made of a portion of a work to replace a missing or damaged part of a work.

[Section 107, guidelines on interpretation of Fair Use in House Judiciary Committee Report 94-1733 on Copyright Bill S.22, and Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions.]

University of California, Riverside

University Library

ADMINISTRATIVE MEMORANDUM NO. 18

January 23, 1978
Revised: February 15, 1983

GUIDELINES FOR PHOTOCOPY

U.C.R. Library Photoduplication Services

1. No more than one article from a periodical issue should be copied per patron. (For interlibrary lending guidelines, refer to Admin. Memo. No. 20.)
2. No work copyrighted within 75 years of the current date may be copied in its entirety unless the requestor has attempted to obtain another original but cannot obtain one at a fair price. You should request proof of non-availability from the patron (a letter from the publisher, for example).

3. Only a portion of a copyrighted work may be copied. The guidelines specify:
Single copies:

- (a) A chapter from a book;
- (b) An article from a periodical or newspaper;
- (c) A short story, short essay or short poem, whether or not from a collective work;
- (d) A chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper.

Multiple copies supplied to an instructor for classroom use:

- (a) A complete poem if less than 250 words and if printed on not more than two pages or an excerpt from a longer poem of not more than 250 words;
- (b) Either a complete article, story or essay of less than 2500 words or an excerpt from any prose work of not more than 1000 words or 10% of the work, whichever is less;
- (c) One chart, graph, diagram, drawing, cartoon or picture per book or periodical issue;
- (d) Certain works in poetry, prose or in "poetic prose" which often combine language with illustrations and which are intended sometimes for children and at other times for a more general audience fall short of 2500 words in their entirety; however, an excerpt comprising not more than 10% of the words found in the text thereof, may be reproduced.

You are not required to count words, but should use your judgment. Since the guidelines are as yet untested, U.C.R. policy should not be unnecessarily restrictive.

4. Copies should not be made of "consumable" copyrighted works: workbooks, standardized tests and test booklets and answer sheets, etc.
5. Basically, the same guidelines apply to the copying of musical scores:

- (a) Musical scores may be copied in their entirety for preservation and/or replacement purposes only if another original is not available at a fair price or for emergency use for an imminent performance;
 - (b) No more than 10% of the work may be copied if not for preservation or replacement purposes.
- 6. Unpublished materials (theses, dissertations, etc.) may not be copied without written permission of the author or other copyright owner.
 - 7. Anything copyrighted prior to 75 years from the current date may be copied without restriction.
 - 8. Published materials which do not contain a notice of copyright may be copied without restriction.
 - 9. Any U.S. Government publication may be copied in its entirety without restriction. Other government publications (e.g. -- UN and state government documents) are subject to the same guidelines as any other published works.
 - 10. The revised Duplication Request Form must be signed by all patrons requesting photocopies; the remainder of the form may be completed as you deem necessary.
 - 11. All photocopied materials will be stamped with the following notice:
"Notice: This material may be protected by copyright law (Title 17 U.S. Code)."
 - 12. The following Display Warning of Copyright will be posted at the Photoduplication Services window:

"WARNING CONCERNING COPYRIGHT RESTRICTIONS

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material.

Under certain conditions specified in the law libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use", that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law."

DUPLICATION REQUEST

Date _____

Requester's Name: _____

Payment: Cash _____ Recharge _____

Page Nos. to be copied _____
(use tabs for books)

Number of copies per original _____

Collate _____ Staple _____ Bind _____

Cost (entered by operator)

Number of copies _____ Amount _____

11 inch paper

Number of copies _____ Amount _____

14 inch paper

Collating _____ Amount _____

Binding (cost quoted when ordered) Amount _____

Other _____ Amount _____

Total \$ _____

WARNING CONCERNING COPYRIGHT RESTRICTIONS

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be "used for any purpose other than private study, scholarship or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of the copyright law.

I have read the above warning, believe my request to be in compliance with the copyright law, and assume responsibility for any copyright infringements arising out of this photocopy request or the use of the materials requested.

(signature)

COPYING PROCEDURES AND COPYRIGHT LAW

The Copyright Law which went into effect on January 1, 1978 obligates libraries to follow certain procedures in inter-library loan and in photocopying procedures. All units should comply with the following provisions:

1. A "Display Warning of Copyright" must be posted in a prominent position on all self-operated machines (both public and office) as well as in areas where orders for photocopy are received. The wording of this warning is mandated by law (Federal Register, 11-16-77, pp. 59264-5) and reads:

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

An additional line should be added to the notice when posted on self-operated machines:

Coin and user-operated copiers: The person using this equipment is liable for any infringement.
(Wording suggested by ALA - American Libraries, 11-77, p. 530.)

The "Display Warning of Copyright" must be printed on heavy paper or other durable material in type at least 18 points in size.

2. All order forms and price sheets for photocopying must bear an "Order Warning of Copyright," the wording of which is identical with that of the "Display Warning". The order warning must be printed within a box located prominently on the order form itself, either on the front side of the form or immediately

COPYING PROCEDURES AND COPYRIGHT LAW - page 2

adjacent to the space calling for the name or signature of the person using the form. The print used must be no smaller than that used predominantly throughout the form and in no case should be smaller than 8 points. Most important, the notice must be printed in such manner as to be clearly legible, comprehensible, and readily apparent to a casual reader of the form.

3. To indicate that the requesting library is cognizant of the law, all inter-library loan forms requesting photocopies must carry the notation:

Request complies with:

- ☐ 108(g) (2) Guideline (CCG)
☐ other provisions of copyright law (CCL)

No work may be done unless one of these boxes is checked.

4. All materials photocopied by the library staff for users should be stamped:

This material may be protected by copyright law
(Title 17, U.S. Code). (American Libraries, 11-77,
p. 530)

This should both notify the user of his/her responsibility and free the library from any liability.

5. All units involved in inter-library loan must maintain files of their own outstanding and completed requests for a period of at least three years.

"FAIR USE" AND LIBRARIES

Under Section 108 of the new Copyright Law, libraries are authorized to do certain copying which may exceed fair use. The guidelines for this section, which were included in the conference report on the copyright act (House Report 94-1733, p. 72), permit libraries to make single copies for the library collection and single copies for library users. The library may make single copies for the collection for the purpose of preservation or security of unpublished works in the collection of the duplicating library; for purposes of loan to another library; and as a replacement where an unused replacement cannot be obtained at a fair price. The library may make a single copy of an article or excerpts or other works: where the copy becomes the property of the user; where the library has no notice

COPYING PROCEDURES AND COPYRIGHT LAW - page 3

that the copy will be used for other than scholarly purposes; and where an appropriate notice (as described above) is placed on display at the place where orders for copies are taken. The library itself must meet three criteria in order to make such copies:

1. The library must be one whose collections are open to the public or available to outside researchers.
2. The copying must not be done for commercial advantage.
3. Copies must include a notice of copyright.

There are a number of restrictions as to how many, what type, and under what conditions copies may be made; for details, library staff should consult the Section 108 guidelines. However, two special situations should be kept in mind:

1. Section 108 expressly states that the copying rights it grants libraries do not override any contractual obligations assumed by the library at the time it obtained a work for its collection. In view of this provision, librarians must be especially sensitive to the conditions under which they purchase or accept materials. In order to avoid executing an agreement which would limit the library's rights under the copyright law, librarians should check with the Library Administration in cases where there is reason for doubt.
2. Although for the most part library staff should avoid this, it is conceivable that there will be occasions on which a library will wish to engage in multiple photocopying of a particular title or issue which is of a kind not permitted by the law, and that it will, therefore, wish to obtain copyright clearance for the right to copy.

If a library finds that the desired copying exceeds what is permitted by the law, at least three courses of action are open for consideration.

- a. The library may decide that excess copying can be avoided;
- b. The library may request permission from the copyright holder to make a specified number of copies with or without payment of the fee;
- c. The library may obtain permission and pay the fee through a centralized copy service.

Librarians who believe that a proposed copying project may be outside the copying privilege permitted by the law should check Sections 107 and 108 of the copyright law. If doubt still persists, the Library Administration should be contacted for further information.

INTERLIBRARY LOAN COPYRIGHT POLICIES

NOTICE: Photocopying is subject
to copyright law P.L. 94-533. This
request is for research, study only.

Interlibrary Loan
BOOK or THESIS
Request Card

Florida State University

NAME _____ ADDRESS _____ ZIP _____ PHONE _____
STATUS: Faculty _____, PhD _____, Masters _____, UGR YEAR _____ Department _____
RESEARCH TOPIC _____ DATE OF REQUEST _____
REQUEST NOT WANTED AFTER _____ DID YOU CHECK FSU CARD CATALOG? _____

AUTHOR (last name first) _____
TITLE _____

BOOK THESIS
CITY PUBLISHED _____ UNIVERSITY WHERE COMPLETED _____
PUBLISHER _____
DATE _____ MASTER'S _____ DOCTOR'S _____
ANOTHER EDITION ACCEPTABLE? _____ IF MORE DATE COMPLETED _____
THAN ONE VOLUME, SPECIFY VOLUME NEEDED _____
WHERE CITED? TITLE _____ DATE _____ PAGE _____

OFFICE USE ONLY

REMARK:

Verified in:	DATE REC'D _____	DATE DUE _____
LC BASE _____	FROM _____ POSTAGE _____	BORROWER'S _____
LC-NUC Pre-1956 _____	CONDITION OF BOOK: _____	BORROWER NOTIFIED _____
LC-NUC 1942-62 _____	REC'D: GOOD _____ BAD _____	RENEWAL REQUESTED _____
LC-NUC _____	OTHER _____	RENEWAL DATE _____
BRIT. MUS. _____	INSURED FOR _____	BORROWER NOTIFIED _____
BIB. NAT'L _____	RET'D: GOOD _____ BAD _____	DATE RET'D _____
OTHER _____	OTHER _____	INSURED FOR _____

MP 924

INTERLIBRARY LOAN

PERIODICAL ARTICLE OR NEWSPAPER REQUEST CARD

NOTICE: WARNING CONCERNING COPYRIGHT RESTRICTIONS

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be "used for any purpose other than private study, scholarship and research." If a user makes a request for purposes in excess of "fair use," that user may be liable for copyright infringement. This institution reserves the right to refuse to accept a copying order if, in its judgement, fulfillment of the order would involve violation of copyright law.
Federal Register, vol.42, no.221, Wednesday, November 16, 1977.

NAME _____ ADDRESS _____ ZIP _____ PHONE _____
STATUS: Faculty _____, PhD _____, Masters _____, Ugr Year _____ DEPARTMENT _____
RESEARCH TOPIC _____ DATE OF REQUEST _____
REQUEST NOT WANTED AFTER _____ DID YOU CHECK FSU CATALOG? _____

TITLE OF PERIODICAL _____ VOL. _____ NO. _____ YEAR _____
AUTHOR OF ARTICLE (last name first) _____
TITLE OF ARTICLE _____ PAGE _____ TO _____

Please specify the maximum cost you are willing to pay for photocopying (average amount is 15¢ per page with \$3.00 minimum). \$ _____
WHERE CITED: _____ DATE _____ PAGE _____

TITLE OF NEWSPAPER _____ CITY _____ STATE _____
DATE: FROM _____ TO _____ Listed in *Newspapers on Microfilm*, page _____

OFFICE USE ONLY

REMARKS:

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Verified in:	DATE REC'D _____	DATE DUE _____
ULS _____	FROM _____	BORROWER'S DATE _____
NST _____	POSTAGE _____	BORROWER NOTIFIED _____
CASSI _____	INSURED FOR _____	RENEWAL REQUESTED _____
S.E.R.M.L. _____	INV/CHGS. _____	RENEWAL DATE _____
OTHER _____	INSURED FOR _____	BORROWER NOTIFIED _____

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MP 924

Florida State University

InterLibrary Loan Information

Office Hours: 8 a.m.--5 p.m. Mon. thru Fri.
(Additional hours of pick-up & return available through Reference)

InterLibrary Loan services at Florida State University are open for serious research by its faculty members and students only. (Undergraduates may borrow from Florida Libraries, but not from out-of-state libraries.) InterLibrary Loan service supplements FSU Library's collection. Please ask a Librarian for assistance in making sure that materials are not available in the FSU Library before submitting a request to InterLibrary Loan.

THE REQUEST :

- * Complete information for each request should be given on a request card supplied by InterLibrary Loan.
- * Use one request card per item. (Multiple articles from the same periodical must be treated as separate requests.)
- * Please type or hand print the information on the request card and please do not abbreviate. Telephone requests are not accepted.
- * Consult the policy file of Universities in the Reference Area FIRST before making any doctoral dissertation or master's thesis request.
- * Only 3-6 requests per patron can be processed each week. Patrons are encouraged to arrange the requests in order of importance to their research, and submit them in batches of 3-6 at a time over a number of days -- not consecutively.
- * Allow an average of 20 days or more for the arrival of material requested. Most materials are shipped by the lending libraries by U.S. mail library rate.
- * Every borrower must strictly observe all regulations imposed by the lending library, such as due dates, care in using fragile, or old materials, the restriction for "In Library use only", or instructions regarding no photocopying.

UNAVAILABLE ITEMS :

- * Patrons should not ordinarily ask to borrow the following types of materials:
a. fiction b. inexpensive items currently available in the U.S. such as materials in Books in Print c. standard reference works d. genealogical titles e. whole issues of periodicals in lieu of photocopies f. pamphlets, and g. rare books.
PLEASE NOTE: Most libraries will not loan these materials. Requests for such items will be processed as time allows after all legitimate requests are completed.

BOOK CHARGES :

- * Each borrower pays a portion of the return postage of a borrowed item which varies depending on the weight of the material borrowed.

PERIODICAL CHARGES :

- * Since most libraries do not lend periodicals, but prefer to send photocopy of an article, the requestor must pay for the photocopy furnished. Please indicate the maximum cost you will pay when filling out a periodical request, as one library may charge a higher rate than another. The request cannot be processed without a specified maximum cost.

COPYRIGHT :

- * The patron may be asked to supply copyright clearance for certain categories of photocopy requests. Particularly affected are those journal articles published in the last five years for which there are several requests. Clearance involves evidence of permission to the individual from the copyright holder which includes the following information: periodical title, volume, number, date, pages, article title and author, place, publisher, edition, intended use through InterLibrary Loan. As an alternative, the patron may wish to ask the copyright owner for available reprints.

RENEWALS :

- * The time allowed by the lending library is indicated on a slip inserted in the book. An extension of time should be requested only in unusual circumstances. Application for such renewal must be made before the date indicated on the date due slip. If a borrower continually disregards due dates, further service may be refused.

Please return all borrowed materials to THIS OFFICE ONLY on or before the due date.

1. The library assumes that the request is made in compliance with the Fair Use provisions of Title 17, United States Code, Section 107.
2. The following notice of copyright will be included on the reproduction of the copyrighted work:

NOTICE: This material may be protected by
copyright law (Title 17 U.S. Code)

- C. Will not make multiple copies for reserve.

III. INTERLIBRARY BORROWING

- A. Each library will maintain copies of all filled photocopy requests in title order.
- B. At the end of each calendar year, each library of the University will review the title files to see if it has received more than five copies in that year from any copyrighted periodical published in the last five years. Those titles for which the number of copies is deemed to exceed the spirit of the law and the guidelines for photocopy in lieu of subscription (i.e., the library does not have a subscription) will be considered for purchase by the appropriate collection development specialist.
- C. On the ALA request form (see Revised Interlibrary Loan Form on page 3) each library will check the "Conforms to Copyright Guidelines" (CCG) box, indicating that the request is being made in conformity with the CONTU Interlibrary Loan Guidelines (hereinafter "CONTU Guidelines") in the following circumstances:
 1. The library has the title on order [CONTU Guidelines 2 (a) and (b)]; or
 2. The library owns the item but for some reason cannot make the particular portion requested available (CONTU Guideline 2).
- D. The "Conforms to Copyright Law" (CCL) box on the request form will be checked, indicating that the request is being made in conformity with the Copyright Act of 1976 in the following circumstances:
 1. When the copy requested becomes the property of the user:
 - (a) If the library believes that it has not received an undue number of articles from the current five years of a periodical title;
 - (b) If the request is for an entire work or substantial part of a work where the requesting library has determined that a copy cannot be obtained at a fair price [See Subsection 108 (e)]:

☐ Borrowing Library Fill in left half of form including both library addresses in full Fold here Send sheets A, B and C to lending library, and enclose shipping label Lending Library Fill in per- manent stamp under REPORTS. return sheets B and C to Borrowing Library Form rev. 6/77	Date of request: _____ Not needed after: _____ Requestor's order no. _____	Call No.	Request for ☐ LOAN or ☐ PHOTOCOPY According to the A.L.A. Interlibrary Loan Code	
	For use of _____ Status _____ Dept. _____	Book author: OR: periodical title, vol. and date	Book title, edition, place, year, series: OR: periodical article author, title, pages. ☐ This edition only.	REPORTS: Checked by _____ SENT BY: ☐ Library rate ☐ _____ Charges \$ _____ Insured for \$ _____ Date sent _____ DUE _____
	Verified in: OR: Item cited in ISBN, or ISSN, or LC card, or OCLC, or other number if known _____	If non-circulating, & cost does not exceed \$ _____, please supply ☐ Microfilm ☐ Hard copy	RESTRICTIONS: ☐ For use in library only ☐ Copying not permitted ☐ _____	NOT SENT BECAUSE: ☐ In use ☐ Not Owned ☐ Non Circulating ☐ Request of _____
	Request complies with	AUTHORIZED BY: _____ (FULL NAME) Title _____	Estimated Cost of: ☐ Microfilm _____ ☐ Hard copy _____	BORROWING LIBRARY RECORD: Date received _____ Date returned _____ By ☐ Library rate ☐ _____ Postage enclosed \$ _____ Insured for \$ _____
Request complies with ☐ 108(g) (2) Guidelines (CCG) ☐ other provisions of copyright law (CCL)		RENEWALS: ☐ No renewals Requested on _____ Renewed to _____ (or period of renewal) _____ Note: the receiving library assumes responsibility for notification of non receipt		

- (c) If the request is for a copy of book or periodical material made for a teacher in conformity with the "Agreement on Guidelines for Classroom Copying in Not-For-Profit Educational Institutions" or for copying of music under the "Guidelines for Educational Uses of Music;"
 - (d) When the requesting library believes, because of the circumstances of the request, that the reproduction and distribution of the copy is a "fair use" (see Section 107 for statutory tests to determine whether a given reproduction is or is not a "fair use");
 - (e) When the requested photocopy is a copy of the kind of material described in 108 (d) but published earlier than five years prior to the date of the request;
 - (f) When the requested material is not subject to the reproduction rights granted by Section 108 (i.e., it is a musical work, a pictorial, graphic or sculptural work, or a motion picture or other audiovisual work other than an audiovisual work dealing with news) but the requesting library believes that, because of the circumstances of the request, the reproduction and distribution of the copy would be a "fair use." [See Subsection 108 (d) for limitation of Section 108. See Section 107 for four statutory tests to determine whether a given reproduction is or is not a "fair use."]
2. When the requested copy becomes a part of the collection of the requesting library:
- (a) If the request is for a facsimile copy of a published work requested solely for replacement of a damaged, deteriorating, lost or stolen copy of a work and the requesting library has determined, after reasonable investigation, that an unused replacement is unavailable at a fair price [See Section 108 (c)];
 - (b) Where, because of the circumstances of the request, the requesting library believes that the reproduction and distribution of the copy would be a "fair use" [see Section 107 for four statutory tests to determine whether a given reproduction is or is not a "fair use"].

Requests transmitted by teletypewriter exchange (TWX) will have either the CCG or the CCL code supplied.

To obtain the patron's affirmation of his or her awareness of the copyright law and intention to

comply with it, the following "Order Warning of Copyright" will be added to the form for patrons to request photocopies, above the signature line. The format of the warning will comply with the instructions in Part 201.14 of 37 CFR Chapter II, Paragraph (c)(2).

NOTICE

WARNING CONCERNING COPYRIGHT RESTRICTIONS

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy of the reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

The above notice will be prominently displayed in the area of the library where orders are accepted.

IV. INTERLIBRARY LENDING

- A. Each library will fill requests from other libraries that have checked either the CCG box or the CCL box (or have supplied these codes in TWX requests). Requests that do not include this information will be returned with a form note:

We are returning your request unfilled because confirmation of your compliance with the Copyright Law (Title 17, United States Code) has been omitted.

- B. For requests for photocopy received from individuals, each library will fill the request and include the following notice with the material supplied:

NOTICE: THIS MATERIAL MAY BE PROTECTED BY COPYRIGHT LAW
(TITLE 17 U.S. CODE).

The library will affix this notice in one of two ways: either by stamping it on the first page of each item photocopied or by using a clear plastic overlay containing the notice so that it appears on the first page of each item photocopied.

V. LIBRARY PHOTOGRAPHIC SERVICES

- A. Copying requests forwarded to library photographic services from another library unit. The library photographic service will stamp the following notice on the first page of each photocopied item:

NOTICE: This material may be protected by
copyright law (Title 17 U.S. Code)

- B. All other copying or reproduction requests presented at or to agents of library photographic services, or received by same.

Library photographic services will incorporate into their work order request forms the following Order Warning, in accordance with format instructions in Part 201.14 of 37 CFR Chapter II, Paragraph (c)(2).

NOTICE

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies of other reproductions of copyrighted materials.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copy order if, in its judgement, fulfillment of the order would involve violation of copyright law.

The same notice will be displayed at the place where orders for copies are accepted, formatted in accordance with the instructions in Part 201.14 of 37 CFR Chapter II, Paragraph (c)(1).

May 1, 1982

SECTION 2. INTERLIBRARY BORROWING PROCEDURES.

- 2.1. Each UCLA Library Interlibrary Borrowing Unit (University Research Library Interlibrary Services, Biomedical Library, Physical Science & Technology Libraries, and Law Library) will maintain records of all filled photocopy requests in title order. The records will be retained for three years beyond the calendar year in which the request was filled. If the records are not kept beyond the period, a summary of each transaction should be prepared for the five-year review mandated by Section 108(1).
- 2.2. At the end of each calendar year, these units will combine these files and review each title to determine whether there had been filled requests for more than five photocopies of an article or articles published in the previous five years in any one copyrighted periodical. Those titles for which the number of photocopies is deemed to exceed the spirit of the law and the CONTU Interlibrary Loan Guidelines (hereinafter CONTU Guidelines) will be considered for purchase by the appropriate collection development specialist.
- 2.3. On the ALA request form (see Revised Interlibrary Loan Form following this page) each ILL borrowing unit will check the "Conforms to Copyright Guidelines" (CCG) box, indicating that the request is being made in conformity with the CONTU Guidelines, in the following circumstances:
 - 2.3.1. The Library has title on order [CONTU Guidelines 2(a) and (b)];
or
 - 2.3.2. The Library owns the item but for some reason cannot make the particular portion requested available [CONTU Guidelines 2].
- 2.4. The "Conforms to Copyright Law" (CCL) box on the request form will be checked, indicating that the request is being made in conformity with the Copyright Act of 1976, in the following circumstances:
 - 2.4.1. When the copy requested becomes the property of the user:
 - 2.4.1.1. If the library believes that it has not received an undue number of articles from the current five years of a periodical title;
 - 2.4.1.2. If the request is for an entire work or substantial part of a work where the requesting library has determined that a copy cannot be obtained at a fair price; [See Section 108(e)]
 - 2.4.1.3. If the request is for a copy of book or periodical material made for a teacher in conformity with the "Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions" or for

May 1, 1982

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copying of music under the "Guidelines for Educational Uses of Music;" [See Appendix A5/A7 and Appendix C]

- 2.4.1.4. When the requesting library believes, because of the circumstances of the request, that the reproduction and distribution of the copy is a "fair use" (see Section 107 of Copyright Law for statutory tests to determine whether a given reproduction is or is not "fair use");
- 2.4.1.5. When the requested photocopy is a copy of the kind of material described in Section 108(d) of the Copyright Law but published earlier than five years prior to the date of the request;
- 2.4.1.6. When the requested material is not subject to the reproduction rights granted by Section 108 of the Copyright Law (i.e., as described in Section 108(h), it is a musical work, a pictorial, graphic or sculptural work, or a motion picture or other audiovisual work other than an audiovisual work dealing with news) but the requesting library believes that, because of the circumstances of the request, the reproduction and distribution of the copy would be a "fair use." [See Subsection 108(d) for limitation of Section 108. See Section 107 for four statutory tests to determine whether a given reproduction is or is not a "fair use."]
- 2.4.2. When the requested copy becomes a part of the collection of the requesting library:
 - 2.4.2.1. If the request is for a facsimile copy of a published work requested solely for replacement of a damaged, deteriorating, lost or stolen copy of a work and the requesting library has determined, after reasonable investigation, that an unused replacement is unavailable at a fair price. [Section 108(c)]
 - 2.4.2.2. Where, because of the circumstances of the request, the requesting library believes that the reproduction and distribution of the copy would be a "fair use" [see Section 107 for four statutory tests to determine whether a given reproduction is or is not a "fair use"].
- 2.5. Requests transmitted by teletype writer exchange (TWX) or other electronic means will have either the CCG or the CCL code supplied.
- 2.6. To obtain the patron's affirmation of his or her awareness of the copyright data and intention to comply with it, the following Order Warning of Copyright shall be printed within a box located prominently on the ILL request forms which patrons use to request

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journal articles, photocopies, and monographs. The format of the warning will comply with the instructions in Part 201.14, of 37 CFR Chapter II, Paragraph (c) (2).

NOTICE

WARNING CONCERNING COPYRIGHT RESTRICTIONS

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted materials.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or the reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

- 2.7. The "Warning Concerning Copyright Restrictions" will be prominently displayed where ILL borrower requests are accepted.

SECTION 3. INTERLIBRARY LENDING PROCEDURES.

- 3.1. Each library will fill requests from other libraries that have indicated either CCG or CCL on the request forms. Requests that do not include this information will be returned with a form note:

We are returning your request unfilled because a statement of your compliance with the Copyright Law has been omitted (Title 17, United States Code).

- 3.2. For requests for photocopy received from institutions and individuals, each library will fill the request and include the following notice with the material supplied.

NOTICE: This material may be protected by
Copyright Law (Title 17, U.S. Code).

The library will affix this notice in one of two ways: either by stamping it on the first page of each item photocopied or by using a clear plastic overlay containing the notice so that it appears on the first page of each item photocopied.

MEDIA AND MUSIC REPRODUCTION POLICIES

March 1980

M E M O R A N D U M

(1-page excerpt)

TO ALL ACADEMIC, ADMINISTRATIVE, AND
RESEARCH STAFF AT MIT
CONCERNING THE COPYRIGHT LAW
OF THE UNITED STATES

IV. Copyright in Computer Software

The copyright status of computer programs and data bases (as those terms are generally understood) is quite unclear at present. It seems probable that certain specific provisions will have to be written into the statute in order to clarify various problems which threaten to arise from the application of traditional copyright doctrine to computer programs. Until that is done, or until case law sheds light on the problem, the following comments should be of help:

1. Copyright unquestionably covers programs in flow chart, HIPO, or source language form. Whether it covers the transformation of a program from one of these into the other or from one source language into another is less clear, as is the question of how a program should be considered to be infringed.
2. Copyright does not at present prevent the in-putting of a program or any other work into a computer, or the creation of an object deck made by compiling a program into a computer or otherwise.
3. Copyright probably permits, under the doctrine of fair use, the making of alterations in a program to suit the needs of the user, so long as the resulting work is not distributed by the user to any other person.
4. Copyright does protect against unauthorized printing out of a copyrighted work from a computer, whether the work printed out is program or data base.
5. The production of works with the aid of a computer raises certain problems which should be guarded against by explicit agreement among those producing those works. Specifically, if two or more persons are working on a project for which not all of them are involved in developing the necessary program, an advance written agreement among them should specify who is to be considered the owner or owners of the resulting work.

THE NATIONAL MEDICAL HISTORICAL FILM COLLECTION
THE NATIONAL LIBRARY OF MEDICINE

USER AGREEMENT

In order to safeguard archival footage from the National Medical Historical Film Collection from misuse, damage, loss, or misappropriation when it is loaned out for processing, we require all users to agree to the following procedures:

1. the film must be processed at a reputable film laboratory with experience in handling vintage footage.
2. the film may not leave Washington, D. C. (or its suburbs).
3. the film may not leave the National Library of Medicine for more than one month.
4. all financial transactions must be conducted between the user and laboratory.
5. the film must be hand carried to and from the laboratory by a special messenger service.
6. the user must take sole responsibility for meeting the copyright requirements.
7. the film must be copied in its entirety, portions may not be copied.

NOTICE

WARNING CONCERNING COPYRIGHT RESTRICTIONS

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

I certify that I have received copyright permission, or the work requested, if subject to copyright, is to be used in educational broadcasting activities and will be either shown nonsequentially as individual stills or slides, or short excerpts will be shown for criticism or comment.

Date _____

Film title and number _____

Signature of user _____

Authorized by _____

76

Title _____

95

Date _____

D. H. HILL LIBRARY POLICIES
PERTAINING TO THE USE OF COPYRIGHTED VIDEO RECORDINGS

August, 1982

1. Copyrighted video recordings are restricted to use in the Media Center or campus classrooms.
2. Copies of video recordings licensed by the copyright proprietor for private home use only and not for public display or for library use may be used only for teaching, research and educational purposes as permitted under Section 107 of the Copyright Law. Use of programs that are essentially educational in subject matter is considered educational use. Use of programs that were produced for entertainment purposes is considered non-educational use unless the user specifies otherwise.
3. Off-air recordings of broadcast programs may be used in the Media Center for educational purposes in a manner consistent with fair use. The "Guidelines for Off-Air Recording of Broadcast Programming for Educational Purposes" published in House Report No. 97-495, April 29, 1982, and summarized below, offer some assistance in determining appropriate use. Questions should be referred to the University counsel. Off-air recordings copied for educational use with the permission of the copyright proprietor are not subject to these guidelines.
 - a. An off-air recording, made at the request of an individual teacher, may be retained for 45 days, but then must be erased or destroyed immediately.
 - b. The teacher can use the recording once in a classroom or similar place devoted to instruction and repeat such use once during the first ten school days of the 45 day period for instructional reinforcement, but for the remainder of the period the recording can only be used for teaching evaluation purposes.
 - c. A specific program can be recorded off-air only once for the same teacher.
 - d. Additional copies may be made but are subject to the same restrictions applicable to the original recording.
 - e. All recordings and copies must include the copyright notice as broadcast.
 - f. Programs need not be used in their entirety, but must not be altered, combined or merged with other recorded material.

AUTHORIZATION TO TAPE

THE PENNSYLVANIA STATE UNIVERSITY

Date _____

I, _____,

hereby authorize THE PENNSYLVANIA STATE UNIVERSITY to record by audio-tape, video-tape or otherwise, certain presentations described as follows:

The recordings may be used by the University for educational purposes either in classrooms or through broadcast media, and may be used as research materials by scholars with the understanding that my permission need/need not be secured prior to publication of any part of their contents.

I authorize the use of my name and such publicity materials (photographs, biographical data, etc.) as may be needed for the announcement and identification of such programs.

I acknowledge that The Pennsylvania State University shall be the user of the recordings.

It is understood by the University and the undersigned with respect to materials not original with myself which I shall use, that permission for their reproduction as instructional media resides with the copyright owners.

SUNY, Albany

SOUND RECORDINGS DUPLICATION

Introduction:

The University Libraries provide services for duplication of audio tapes and listening facilities for the playback of audio recordings. These services are governed by the Copyright Act of 1976 (PL94-553) which became effective on 1 January 1978, and rules, regulations and guidelines of the State University of New York.

Public Law:

PL94-553, generally referred to as the New Copyright Law, has two sections which are applicable to the above named services:

Section 107 (Fair Use), generally speaking, allows copying without permission from, or payment to, the copyright owner where the use is reasonable and not harmful to the rights of the copyright owner.

Section 108 (Reproduction by Libraries and Archives) deals with a variety of situations involving photocopying and other forms of duplication by libraries and archives. Briefly stated the issues addressed are: libraries and archives may photocopy or duplicate materials when Fair Use has been considered; individuals or institutions doing such copying may be held liable and the multiple and systematic copying is not extended under this section.

For further clarification see the full text of PL94-553, and or General Guide to the Copyright Act of 1976, Copyright Office Library Congress, Washington, D. C., 1977, and or the Educational and CONTU Guidelines of which a copy is attached.

Guidelines for University Libraries:

Copies of audio tapes will be made upon request of library patrons if, in the judgement of the nonprint service librarian, all applicable sections

of the New Copyright Law are satisfied. The general guidelines are as follows:

1. The request falls within Fair Use rights and practices
2. The reproduction and/or distribution is made without any purpose of direct or indirect commercial advantage
3. The reproduction and or distribution of the work includes a notice of copyright
4. The reproduction and or distribution is of a single copy that is isolated and unrelated to any other reproduction or distribution and
5. A LRC Copy Service request is completed and signed by the individual requesting copying.

Examples of audio recordings which may be copied are:

- lecture tapes
- note tapes
- audio tapes which are made at SUNYA for the print impaired
- for purposes of preservation, audio tapes which are owned by the library and for which written proof is on file in the library that a copy cannot be obtained at a fair price
- audio tapes which are accompanied by a document granting permission for copying.

Examples of audio recordings which may not be copied are:

- music and spoken word recordings which are available for purchase from commercial sources
- compilations of sound recordings.

Reserve Listening

copies of sound recordings will be accepted for reserve listening if:

- all applicable sections of the New Copyright Law are satisfied
- a written and signed document of permission is presented and filed with the library for each reproduction of a sound recording placed on reserve or
- the sound recording was commercially prepared and is on original recording material.

SECTION 7. MUSIC BOOKS, SCORES, PARTS, AND PHONORECORDS.

- 7.1. Definitions: For purposes of the policies and procedures under this section, a "phonorecord" is defined as a musical recording on disc or tape in any format; a musical "part" is the notated music for a particular instrument or voice issued separately from a score, a "part" being considered the equivalent of an article or other literary contribution which is part of a complete work.
- 7.2. General: Under provisions of the Copyright Revision Act of 1976, and within the Guidelines for Classroom Copying in Not-for-Profit Educational Institutions and the Guidelines for Educational Uses of Music, the policies and procedures established in the other sections of this Administrative Memorandum for the copying and handling of reserve, inter-library loan, and manuscript and archival materials apply generally to the supervised and unsupervised copying of music books, scores, parts, and phonorecords.
- 7.3. Replacement Copying of Phonorecords of Published and Unpublished Works: Units may make one copy of a phonorecord for purposes of replacement, using a copy owned by another library or individual, but in the case of published works only after reasonable efforts to determine that a replacement is not available from commercial sources at a fair price.

[Section 107 and Section 108(c)]

- 7.4. Archival Copying of Phonorecords: Units may make one copy of a phonorecord of a published or unpublished work, or a portion thereof, for archival purposes. However, such an archival copy may not be used for any purposes other than to produce another copy and may be used for that purpose only after reasonable efforts to determine that a replacement is not available from commercial sources at a fair price.

[Sections 107, 108(b), and 108(c)]

7.5. Reserve Operations.

- 7.5.1. Units may place on reserve single copies of phonorecords of copyrighted music, or portions thereof, to supplement classroom instruction or examination, when such copies are received from the instructional staff. [Section 107 and Guidelines for Educational Uses of Music, A.5.]
- 7.5.2. Units, when requested by the instructional staff, may make one copy of a phonorecord of copyrighted music, or a portion thereof, for reserve purposes. [Section 107 and Guidelines for Educational Uses of Music, A.5.]

- 7.6. Reproduction of Phonorecords of Copyrighted Music by Users of the Music Library: For purposes such as use in connection with class assignments, examinations, teaching, scholarship, or research, users may make a

-19-

single cassette copy of a phonorecord of copyrighted music, or a portion thereof, during the playing of such phonorecord by the staff of the Music Library Audio Facility [Section 107 and Guidelines for Educational Uses of Music, A.S.] Users other than University of California employees, in order to obtain this service, are required to sign the Copyright Indemnification Statement noted below:

NOTICE

WARNING CONCERNING COPYRIGHT RESTRICTIONS

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted materials. Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be "used for any purposes other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement.

This institution reserve the right to refuse to accept a copying order, if, in its judgment, fulfillment of the order would involve violation of copyright law.

My signature below on the sign-up sheet indicates that I understand and agree with the above statement of conditions and warning concerning copyright restrictions.

My signature further indicates that I assume responsibility for any copyright infringements arising out of any requests for copying of phonorecord materials or use of such copied materials, and will indemnify, defend, and hold harmless the Regents of the University of California and its officers, agents, and employees, of from and against any and all claims, liability, loss, or damage whatsoever arising in any way out of such requests or the use of the materials requested.

SECTION 8. AUDIOVISUAL MATERIAL AND SPOKEN WORD RECORDINGS (EXCLUSIVE OF MUSIC):

Units which have responsibility for spoken word recordings and other audiovisual materials:

8.1. May place single and multiple copies of audiovisual materials on reserve when received from the instructional staff.

8.1.1. In accepting material for reserve it will be the understanding of the UCLA Library that the material has been made in compliance with Section 107 of the Copyright Law.

8.1.2. In sending out reminders to the instructional staff regarding the submittal of reserve lists and photocopied or otherwise reproduced materials, units will include the following notice on their correspondence:

The Copyright Law of the United States (Title 17, United States Code) governs the making of photocopies or other reproduction of copyrighted materials.

In accepting photocopies or other reproductions of materials for reserve the UCLA Library assumes that the copy or copies have been made in compliance with the Copyright Law.

Chancellor Young, in his Letter to the Academic Staff dated April 3, 1978, outlined the rules governing the copying of materials for educational use, and the related policies adopted by the Library, under the Copyright Law. Questions regarding the interpretation of the Copyright Law may be addressed to the Office of the Campus Counsel, 2241 Murphy Hall, at Extension 54042. Assistance in obtaining permission to copy materials which you feel cannot, under the law, be copied without permission may be requested of the Office of Contract and Grant Administration, 3109 Murphy Hall, at Extension 54031.

8.2. May not make, without permission, copies of entire copyrighted works for placement on reserve or use by instructors in class. Copying of portions of works to be placed on reserve or for classroom use should meet the criteria for fair use (Section 107).

8.3. May reproduce from audio and/or audiovisual masterworks a single copy for archival purposes. However, such an archival copy may not be used for any purpose other than to produce another copy and may be used for that purpose only after reasonable efforts to determine that a replacement is not available from commercial sources at a fair price.

University of California, Riverside
University Library

ADMINISTRATIVE MEMORANDUM NO. 23

October 28, 1982

POLICY FOR MEDIA REPRODUCTION

This University Library policy for media reproduction has been developed to govern the copying of media in support of instruction and research within the spirit and intent of the Copyright Law and the various guidelines which have been formally established. The Instructional Media Resources Center (IMRC), the Media Study Center (MSC), and the Music Library will respond to requests for copying media in conformance to this policy. Their goal will be to supply copies of media required for educational purposes providing the making of such copies falls within permissible use of copyrighted materials.

I. OFF-AIR RECORDINGS

The Guidelines for Off-Air Recording of Broadcast Programming for Educational Purposes are attached to this policy and will be followed in making off-air video or audio recordings. These Guidelines were created by a negotiating committee appointed in 1979 by Representative Robert C. Kastenmeir, Chair of the House Subcommittee on Courts, Civil Liberties, and the Administration of Justice. The committee was made up of representatives of educational users and copyright proprietors, and on October 14, 1981, the Guidelines resulting from two years of work were officially recognized and read into the Congressional Record. While the Guidelines do not have the force and effect of law, they do represent a compromise acceptable to both educational institutions and copyright holders. Until more definitive legislation or guidelines are developed, the University Library will adhere to the provisions of the Guidelines.

The Guidelines allow non-profit educational institutions to make off-air video recordings without permission, providing the video recording is erased after 45 days. Upon request, IMRC will make video off-air recordings, and then loan the recording for up to 45 days. After that time, the recording must be returned to IMRC and it will be erased. If it is required for longer than 45 days, the user must request permission from the copyright holder. If permission has been obtained from the copyright holder, IMRC will make the video recording available to the user for the cost of the video tape.

Daily network newscasts are exempted from the Guidelines, because the copyright law permits libraries or archives to produce copies of audiovisual news programs providing the reproduction is made without any purpose of direct or indirect commercial advantage, the collections are open to the public, and the reproduction includes a notice of copyright. IMRC will make off-air video recordings of news programs on demand, and the requestor may keep the video recording if willing to pay the cost of the video tape.

Permission to record certain public broadcasts is routinely given without charge. Programs funded by the California Public Broadcasting Commission/California Council for the Humanities joint fund, the California Public Television Center, the Capitol News Bureau, and California Public Radio, may be recorded by educational institutions with permission.

For additional information about off-air recordings see the guidelines attached to this administrative memorandum.

II. VIDEO COPIES OF FILMS

Films under current copyright protection may not be video recorded without written permission from the copyright holder. IMRC will only video record copyrighted films when the requestor has received written permission.

III. INSTRUCTIONAL AIDS

IMRC and MSC will assist in making instructional aids, in the form of slides, transparencies, audio recordings, video recordings, and other media formats. However, only portions of copyrighted works may be copied without permission for instructional purposes, e.g., a chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper; an excerpt from a score film, video or radio broadcast, or sound recording.

IV. ARCHIVAL COPIES OF MEDIA

For purposes of preservation, IMRC and MSC may make copies of media materials which have been purchased in the past, are no longer available at a fair price from the publisher, producer, or other source, and require copying in order to preserve them for future use.

UNIVERSITY LIBRARIES
UNIVERSITY OF COLORADO AT BOULDER
BOULDER, COLORADO 80309

MUSIC LIBRARY - INTERNAL COPYRIGHT REGULATIONS

General

The Music Library will maintain a current file of copyright literature (including the "Guidelines for Educational Uses of Music," and the "fair use" exclusion for music as stated in House Report 94-1476, p. 78, paragraph 2 of "works excluded") and serve as a copyright resource for information on printed music and musical sound recordings.

Sound Recordings

1. The Music Library will treat all sound recordings submitted for reserve as print material (clearance statement on copyrighted materials required from user).
2. The Music Library will not provide unsupervised sound recording equipment, or permit unsupervised recording from its sound recording equipment.
3. The Music Library will only make sound recordings of a work as provided for in Section 108, subsections (b) and (c) of the Omnibus Copyright Revision Act of 1976 (Public Law 94-553; Title 17, U.S. Code).

Printed Music

1. The Music Library will treat all copies of musical works submitted for reserve as other print materials (clearance statement on copyrighted materials required from user).
2. The Music Library will provide an unsupervised copy machine displaying a notice that the making of copies may be subject to the copyright law.
3. The Music Library will only initiate requests for copies of musical works as provided in Section 108, subsections (b) and (c) of the Omnibus Copyright Revision Act of 1976 (Public Law 94-553; Title 17, U.S. Code).

UNIVERSITY OF VIRGINIA
FINANCIAL POLICY MANUAL

TITLE: COPYING OF COPYRIGHTED MATERIAL:
COPYING WORKS OF MUSIC

POLICY: XV.F.4.

All copying must include the copyright notice found on the printed copy.

Emergency copying for imminent performances is allowed provided replacements will be substituted in due course.

For non-performance use, multiple copying is allowed if:

Excerpts do not comprise entire performable units, movements, or arias.

Excerpts do not comprise more than 10% of the whole work.

Copies do not exceed one per student.

For non-performance use, single copying of the entire unit, movement, or aria is allowed if:

Copyright holder confirms work is out of print, or unit/movement/aria needed is only available in a larger work.

Its use is for scholarly research or class preparation.

Editing or simplifying a work is allowed if basic character is not distorted and lyrics are not altered.

A single copy of recordings of performances by students may be made for evaluation or rehearsal purposes and may be retained by the educational institution or individual teacher.

Instructors may make and retain one copy of sound recordings for constructing aural exercises or evaluations. This fair use pertains to the music copyright, not to any sound recording copyright.

Prohibitions

Copies cannot be used to create, replace, or substitute for anthologies, compilations, or collective works even if accumulated or replaced and used separately.

No copying of consumable works is allowed, e.g., workbooks, exercises, test booklets, etc.

Copying for performance use is not allowed, except as described above.

Copying to substitute for or avoid the purchase of copyrighted music is not allowed, except as described above.

UNIVERSITY OF VIRGINIA
FINANCIAL POLICY MANUAL

TITLE: COPYING OF COPYRIGHTED MATERIAL:
VIDEOTAPING

POLICY: XV.F.3.

The Copyright Office has recently issued standards regarding educational off-air videotaping. The University is adopting the Copyright Office standards summarized below.

An educational institution may tape a program* and retain it for 45 calendar days provided:

Such recordings are used only once for teaching and repeated only once, where reinforcement is necessary, in the first ten class days following the taping.

After ten class days, it may be used in the classroom only for teacher evaluation, i.e., only to decide to include the program in a curriculum after receiving permission from the copyright owner.

Videotapes must be erased or destroyed after the 45-day period.

Taping may only be done in response to a request from an individual teacher and not in anticipation of a request.

All recordings must include the copyright notice of the broadcast.

Additional copies, reproduced to meet legitimate teaching needs, are subject to all provisions governing the original tape. Recordings need not be used in their entirety, but the original content may not be altered, combined, or merged into anthologies or compilations.

Recording programs at home and playing them in class is allowed, if all guidelines are followed.

Audiovisual news programs (local and regional newscasts, interviews on current news events, on-the-spot coverage of news events) may be videotaped or otherwise reproduced and a limited number of copies distributed on a loan basis.

* Programs are defined as television programs transmitted by television stations for reception by the general public without charge.

MANUSCRIPTS AND ARCHIVES

REGULATIONS AND PROCEDURES

Duke

MANUSCRIPT DEPARTMENT, WILLIAM R. PERKINS LIBRARY
DUKE UNIVERSITY, DURHAM, NORTH CAROLINA 27706
919-684-3372

- I. HOURS
 - A. Monday-Friday: 8:00-5:00; Saturday: 9:00-12:30.
 - B. Inquiries advisable concerning holiday schedules.
 - II. REGISTRATION
 - A. Register at the Department's circulation desk. Initial registration requires a driver's license or other photographic identification.
 - B. Only note cards and items necessary for research are allowed beyond the circulation desk. Lockers are provided for all other items, including carrying cases, purses, coats, and books.
 - C. Materials taken into the Reading Room may not be removed until they have been inspected by the staff.
 - III. USE OF MANUSCRIPTS
 - A. Record on your registration form the collections you wish to examine.
 - B. The requested materials will be brought to you in the Reading Room. Stack areas are closed to the public.
 - C. Several collections may be requested at once, but only one box or folder may be consulted at a time.
 - D. Handle manuscripts carefully and keep them in order. Do not mark, fold, or disarrange them or use them as a base for writing notes.
 - E. Fountain pens may not be used. Personally-owned typewriters and copying equipment may be used upon approval by the staff.
 - F. Please notify the staff if you discover damaged or disordered manuscripts.
 - G. Smoking and eating are not allowed in the Reading Room.
 - H. No manuscripts may be removed from the Department.
 - I. Return all materials to the circulation desk.
 - IV. PHOTOGRAPHIC SERVICES
 - A. A copying machine is available in the Department for researchers' use. Copies are 10¢ apiece; the machine takes dimes only. When an item is removed from its folder to be copied, the folder must be left open to the place where the removed item belongs.
 - B. Entire collections may not be copied without permission from the staff.
 - C. Manuscript volumes may be photocopied only by prior explicit permission.
 - D. Researchers who wish to have photocopying or microfilming done by the Perkins Library should consult the staff about placing orders.
 - E. A maximum of fifty items per order may be pulled by the staff.
 - F. Photographic reproductions of materials in manuscript collections are made for personal research only and are not to be further reproduced or placed in another repository without prior written permission from the Department.
 - V. PERMISSION TO PUBLISH
 - A. No material from the collections of the Manuscript Department may be published without prior written permission from the Department.
 - B. Permission to examine and to photocopy materials does not constitute permission to publish.
 - C. Additional fees will normally be charged for commercial use or publication of the Department's materials.
 - D. Duke University assumes no responsibility for infringement of literary property rights and copyrights, or for liability to any person for defamation or invasion of privacy.
 - VI. CITATION OF COLLECTIONS
- See reverse for sample citations and copyright statement.

CITATION OF MANUSCRIPTS

Different style manuals recommend variant formats for citing manuscripts, and the precise form of a citation will vary depending on the type of material. The important point is for future researchers to be able to locate the precise items you cite with minimal difficulty.

In listing manuscripts in bibliographies, give the full name of the collection and location as in the following example:

Charles Wesley Andrews Papers, Manuscript Department,
Duke University Library, Durham, North Carolina.

In preparing footnotes, use the following examples as guides:

****to cite letters:** Eugene Hill to James McPherson, Dec. 18, 1863, in James B. McPherson Papers, Manuscript Department, Duke University Library, Durham, North Carolina.
R.W. Tucker to Erich Fromm, Feb. 28, 1961, in Socialist Party of America Papers, Division II (National File, General Papers, Health Care: 1960-1963), Manuscript Department, Duke University Library, Durham, North Carolina.

****selected other types of materials:**

Carlyle Marney, "The Coming Faith," sermon preached at Princeton, N.J., July 2, 1974 (tape recording), in Carlyle Marney Papers, Manuscript Department, Duke University Library, Durham, North Carolina.

Charles N. Hunter Scrapbook 1867-1928, p. 13, in Charles N. Hunter Papers, Manuscript Department, Duke University Library, Durham, North Carolina.

For further information and examples, see guides such as Kate L. Turabian, A Manual for Writers...; University of Chicago Press, A Manual of Style; or the MLA Handbook.

COPYRIGHT

Under the copyright law that came into effect in 1978, copyright, including rights to unpublished manuscripts, belongs to the author and his/her heirs during the author's lifetime and for 50 years thereafter, even if the physical property has been sold or given away, unless copyright was specifically transferred to the new owner.

There is a special provision in the act for unpublished works created prior to January 1, 1978, and not in the public domain. Copyright in such works will not expire before December 31, 2002, even if the author has been dead more than 50 years.

The practical effect of the copyright law to the researcher is that a serious attempt must be made to locate the holder of the copyright to both published and unpublished writings to obtain permission for publication. Full responsibility for legal questions relating to the use and publication of manuscripts rests with the researcher.

For additional information or assistance, please consult a staff member in the Manuscript Department.



New York University
A private university in the public service

Elmer Holmes Bobst Library
Office of University Archives
70 Washington Square South
New York, N.Y. 10012
Telephone: (212) 598-2358

APPLICATION FOR THE EXAMINATION OF MANUSCRIPTS

I hereby request permission to examine the manuscripts listed below for the following purpose (a specific statement is required);

.....

I understand that permission to examine a manuscript, if granted, does not include permission to publish the contents of the manuscript or any excerpt therefrom at any time, and that separate written application for permission to publish must be made to the Director of the New York University Archives, specifying the manuscript or excerpt. I agree to abide by his decision.

I understand further that the New York University Archives makes no representation that it is the owner of the common law copyright or literary property in its unpublished manuscripts (the official records of New York University excepted), and that I am responsible for obtaining permission to publish from the owner of the copyright (the author or his transferees, heirs, legatees, or literary executors).

If this application includes a request for photographic or other reproduction of any manuscript listed below, I agree that the reproduction is to be made solely for my convenience in examining the manuscript. I promise further that the reproduction will not itself be reproduced, and that it will not be examined by or transferred to any other person or institution, without the prior written permission of the New York University Archives.

In consideration of my being granted permission to examine any manuscript on the terms set forth above, I agree to indemnify and hold harmless the University, its officers, employees, and agents from and against all claims resulting from my use of the manuscript made by any person asserting that he is the owner of the common law copyright or literary property.

Date

Signature:

Permanent Address:

Classification Number

Author

Title

Date

LOAN AGREEMENT
FOR COMMERCIAL AND PRIVATE RESEARCH REPRODUCTION OF ARCHIVAL MATERIALS
HELD BY THE UNIVERSITY OF NOTRE DAME LIBRARIES

ACCESS TO COLLECTIONS:

The collections of the University Libraries are available to all organizational and private researchers and scholars intending to reproduce for private use or publish for profit, in whole or in part, library archival materials held in the University Libraries of the University of Notre Dame. All reproduction requests for access and use of library archival materials such as photographs, cinema or motion films or parts thereof, microfilms, sound recordings, videotapes, autograph letters, scrapbooks, vertical files, manuscripts, personal papers and memorabilia in general, in person or by mail, must be accompanied by this signed agreement. In addition, prior to the release of archival materials for reproduction outside of the University of Notre Dame, a signed agreement provided by the University specifying the terms and conditions of any loan or rental must be returned. It should be noted that the University Libraries reserves the right to deny access for whatever reason it deems to be in the best interest of the University of Notre Dame.

REPROGRAPHIC FORMATS:

This agreement does not pertain to photocopies which can be requested under normal procedures and restrictions at the usual cost of photocopy per exposure. It covers only microfilm, videotape cassettes and photographic prints whenever it is feasible to provide these formats. No other formats will be provided by us.

COPYRIGHTS AND PROPERTY RIGHTS:

The University Libraries cannot be held accountable for any infringements by others of copyright and property rights. Its agreement to provide reproductions of its holdings as a disseminator of information should not be construed as permission to use such reproductions in an unauthorized manner. The requester agrees to indemnify and hold the University of Notre Dame wholly harmless from any and all liability, cost and expense arising from any unauthorized reproduction or infringements of property rights the owner has in the material requested. Permission to use protected material can only be obtained from holders of rights or their heirs or estates. As custodians and owners of physical archival property, it is the University Libraries' obligation to protect copyright and property rights and regulate the use of materials governed by them. Evidence of permission is required for all reproduction requests for protected material.

It will be incumbent upon the requester to find out where to seek legal permission and to obtain such permission in writing. In cases where it is virtually impossible to locate and secure such permission after reasonable searching by the requester, the University Libraries may waive the requirement of written permission in reproducing materials but will accept no responsibility for legal infringements.

In cases where the University of Notre Dame is the owner of any rights, it will be the responsibility of the requester to personally seek the necessary permission in writing from the University of Notre Dame and not the University Libraries. As in other cases, a copy of the permission letter must accompany this signed agreement.

STATEMENT OF SUBJECT AND PURPOSE:

A statement of subject and purpose of research is a fundamental part of the request process for library archival material used for reproduction. It not only plays an important part in monitoring research of the same material on the part of more than one researcher, which is to the researchers' advantage, but also is instrumental in regulating the material in our role as protectors of property rights and copyright. A statement of subject matter and intention of use of reproductions should be included along with a general letter of request for reproduction work to be done.

CREDIT ATTRIBUTIONS AND THE IDENTITY PRESERVATION OF MATERIALS:

The requester agrees to credit the University Libraries as the source holding the original material from whence reproductions are made on all reproduction copies in their final form. The credit should be stated to the effect that the reproduction was made from an original held by the University Libraries of the University of Notre Dame applying to whole or in part reproductions. It will be understood that microfilms, videotape cassettes and photographic prints supplied by us will bear such credit statement information along with other identifying data.

The requester agrees also that along with credits, permission and copyright information will be cited on all reproduction copies in their final formats in a prominent place. Also information as to their original identity and physical characteristics will be carried forward on the copies. It is understood that this procedure will be carried out by us for any reproductions we ourselves provide and that this information is not to be removed. Markings on microfilms, videotapes and films will take the form of targets in prominent initial blank frames. All reproduction work done outside of our production control should be done in a similar fashion in accordance with current archival and reprographic standards of quality.

FEES:

All fees and costs of reproduction are payable in advance to the University of Notre Dame. Actual costs of reproduction handled through the University Libraries will be quoted along with any postage costs:

Searching Fee: Requests for materials actually used in reproduction work exclusive of photocopies will be subject to a \$5.00 searching fee. The University Libraries will report on the condition and availability of material requested to be reproduced.

Handling and Service Fee: A handling and service fee of \$10.00 per title or separate item will be charged for the use of materials actually used for reproduction in addition to any actual costs of reproduction.

Commercial Production Fee: If it is the intent of the requester to produce ten or more copies for sale and profit, a commercial production fee of \$25.00 per title or separate items will apply in lieu of the handling and service fee. This will be in addition to any costs of reproduction. In the area of commercial production, it is agreed that the University Libraries will receive at least one free copy of the finished product containing library material in whole or in part. It is further agreed that the per unit retail price of the product will be paid to the University Libraries in lieu of the \$25.00 fee if the former is larger than the latter figure.

We have read the above agreement and hereby agree to all its statements and provisions:

Name of requester organization or individual:

Authorized signature:

By: _____

Title: _____

Date: _____

Authorized signature for the University Libraries:

Date: _____

SECTION 6. MANUSCRIPTS, ARCHIVAL MATERIALS, PHOTOGRAPHS, ETC.:

- 6.1. UCLA Library units which maintain manuscripts, archival materials, photographs, etc. in their collections may provide facilities for supervised and/or unsupervised copying in the unit under the following guidelines:

- 6.1.1. Supervised Copying. Upon request, the unit may provide a single copy of material with approval of the appropriate authorizing staff member, unless copying is otherwise prohibited by the Copyright Law or for other reasons (e.g., special restrictions imposed by donors, fragility of the material).

Units providing supervised copying directly to users will follow the same procedures as the Library Photographic Service (see Sections 5.1.-5.11., above).

Units providing supervised copying directly to users will clearly display the Yellow Display Warning Sign (see Sections 12.2.1. and 12.2.3., below) copies are accepted.

- 6.1.2. Unsupervised Copying: In units permitting unsupervised copying of manuscripts, archival material, photographs, etc., it will not be necessary to post the Standard Display Warning notice.

- 6.2. UCLA Library units which maintain manuscripts, archival materials, photographs, etc., in their collections and send such materials to the Library Photographic Service for copying, or are authorized by it to accept work orders to be forwarded with the material to be copied, will observe the following procedures:

- 6.2.1. Material requested by the Library Photographic Service to fill copying requests submitted to that service in person or by mail will be forwarded by the unit. Before processing such work orders from UCLA student requestors and non-UCLA requestors, Library Photographic Service will follow appropriate procedures with respect to requirements for acceptance of copyright compliance indication and copyright infringement indemnification, as noted in Sections 5.3., 5.4., and 5.5., above. UCLA faculty and staff requestors are required to sign the work order form which contains the Standard Order Warning Notice (see Section 5.3., above).

- 6.2.2. Those units authorized by Library Photographic Service to accept orders in the unit for materials to be copied by that service will, implement the procedures noted in Sections 6.2., and 5.3.-5.5., above. They will forward the appropriate form(s) with the material to be copied to Library Photographic Service, but will also retain a copy of same on file in the unit which will apply to all future photocopying orders from the requestors.

- 6.2.3. Library Photographic Service will retain on file until further notice copies of the appropriate forms executed under the

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procedures (Sections 6.2.1.-6.2.2. and 5.3.-5.5.), above, which shall apply against any further copying requests from the requestor.

- 6.2.4. Interlibrary loan requests for copying manuscripts, archival materials, photographs, etc.: Library units will forward materials requested by Library Photographic Service in the form of Interlibrary Loan Request for photo-duplication order forms, unless copying of the materials is otherwise restricted. Such requests may also be made by the teletyper.

In order for copying to proceed, each request must contain a copyright compliance statement made by the requestor. As with the ILL requests for photocopies (see Section 3.1., above), the compliance statement may be abbreviated as "CCG" (complies with CONTU Guidelines) or "CCL" (complies with Copyright Law). Such requests which do not contain a compliance statement will be returned unfilled by Library Photographic Service to library units for actions under the referenced Section 3.1.

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